

UNOFFICIAL VERSION

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WEDNESDAY, JUNE 10, 2020

SIXTY-SECOND LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 10:00 a.m., and was called to order by Mr. Speaker McNally.

PRAYER

The proceedings were opened with prayer, via video, by Pastor Les Chapman of Hendersonville Church of Christ in Hendersonville, Tennessee, a guest of Senator Haile.

PLEDGE OF ALLEGIANCE

Senator Haile led the Senate in the Pledge of Allegiance to the Flag.

SALUTE TO THE FLAG OF TENNESSEE

Senator Haile led the Senate in the Salute to the Flag of Tennessee.

ROLL CALL

The roll call was taken with the following results:

Present 29

Senators present were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbrow and Mr. Speaker McNally--29.

COMMUNICATIONS

June 9, 2020

Lieutenant Governor Randy McNally
425 5th Avenue North
Suite 700 Cordell Hull Building
Nashville, TN 37243

Dear Lt. Governor McNally,

I am writing today to request that I be excused from senate session on Wednesday, June 10, 2020 due to a surgical procedure that I am scheduled to undergo in Tullahoma on that date.

Warm Regards,

/s/ Deputy Speaker Janice Bowling

WEDNESDAY, JUNE 10, 2020 -- 62ND LEGISLATIVE DAY

APPROVED: Lieutenant Governor
Randy McNally

June 10, 2020

Lt. Governor Randy McNally
Suite 700, Cordell Hull Building
425 5th Avenue North
Nashville, TN 37243

Dear Lt. Governor McNally:

I respectfully request your consideration to be absent on Wednesday June 10, 2020. I will return for the senate session on Thursday June 11, 2020. Thank you for your consideration of this request.

As ever,

/s/ Senator Rusty Crowe

APPROVED: Lieutenant Governor
Randy McNally

Memorandum

To: The Honorable Lt. Governor Randy McNally
From: Senator Steven Dickerson
Re: Letter of Absence for June 9, 2020 - June 11, 2020
Date: June 9, 2020

Lt. Governor McNally,

I ask that you excuse my absence on Tuesday, June 9, 2020 through June 11, 2020 due to a prior work engagement.

Thank you for your time.

Warmest Regards,

/s/ Senator Steve Dickerson
State Senate-District 20

APPROVED: Lieutenant Governor
Randy McNally

STANDING COMMITTEE REPORTS

FINANCE, WAYS AND MEANS

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: Senate Bill No. 2485.

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WATSON, Chairperson
June 9, 2020

The Speaker announced that he had referred Senate Bill No. 2485 to the Committee on Calendar.

STATE AND LOCAL GOVERNMENT

MR. SPEAKER: Your Committee on State and Local Government begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 1782, 2199 with amendment and 2915; and Senate Joint Resolutions Nos. 1010 and 1011.

DICKERSON, Chairperson
June 9, 2020

The Speaker announced that he had referred Senate Bills Nos. 1782, 2199 with amendment and 2915; and Senate Joint Resolutions Nos. 1010 and 1011 to the Committee on Calendar.

COMMERCE AND LABOR

MR. SPEAKER: Your Committee on Commerce and Labor begs leave to report that we have carefully considered and recommend for passage: Senate Bill No. 2681 with amendment;

BAILEY, Chairperson
June 9, 2020

The Speaker announced that he had referred Senate Bill No. 2681 with amendment to the Committee on Calendar.

JUDICIARY

MR. SPEAKER: Your Committee on Judiciary begs leave to report that we have carefully considered and recommend for passage: Senate Bill No. 2381 with amendment.

BELL, Chairperson
June 9, 2020

The Speaker announced that he had referred Senate Bill No. 2381 with amendment to the Committee on Calendar.

REFERRAL OF BILLS

Mr. Speaker McNally announced he had referred the following Senate Bill to the Committee on Delayed Bills: **Senate Bill No. 2938.**

MOTION

Senator Johnson moved, pursuant to Rule 32 and Article II, Section 18 of the Constitution of the State of Tennessee, **House Bills Nos. 1651, 1980, 2005, 2225, 2586, 2636, 2672, 2673, 2872 and 2907** be passed on first consideration, which motion prevailed.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 1651 -- Prisons and Reformatory Institutions -- As introduced, requires a physician to provide prenatal and postpartum medical care to pregnant prisoners and detainees; requires correctional institutions to provide pregnant prisoners nutritionally appropriate meals and supplemental provisions. Amends TCA Title 41, Chapter 21, Part 2.

House Bill No. 1980 -- Drugs, Prescription -- As introduced, requires the department of health to make available for free on its website its current guidance that has been developed to assist prescribers of opioids in complying with disclosure requirements in current law made to women of childbearing age prior to prescribing more than a three-day supply of an opioid or an opioid dosage that exceeds a total of a 180 morphine milligram equivalent dose. Amends TCA Title 53, Chapter 11.

House Bill No. 2005 -- Tennessee Fish & Wildlife Commission -- As introduced, extends the notice period that a commissioner is entitled to prior to a hearing to defend charges that may result in the commissioner's removal from not less than 10 business days before the hearing to not less than 14 business days before the hearing. Amends TCA Title 70, Chapter 1, Part 2.

House Bill No. 2225 -- Environment and Conservation, Department of -- As introduced, authorizes the commissioner to commission employees of the department who have completed the required training as law enforcement officers; permits law enforcement officers within the division of parks and recreation to provide assistance outside of state parks and recreation areas. Amends TCA Section 11-1-101; Section 11-3-107; Section 59-8-308 and Section 59-8-404.

House Bill No. 2586 -- Holidays and Days of Special Observance -- As introduced, designates "Women's Suffrage Day" as a day of special observance. Amends TCA Title 15, Chapter 2.

House Bill No. 2636 -- Water Pollution -- As introduced, adds representatives of groups representing recreational users of streams to the advisory committee to the division of water pollution control to advise and assist the division on procedures and policies concerning the application of the Water Quality Control Act to the removal of debris from streams and stabilization of stream banks. Amends TCA Title 69, Chapter 3, Part 1.

House Bill No. 2672 -- Contractors -- As introduced, authorizes owners of real property to construct certain residential buildings on that property without obtaining a contractor license; requires notice of such construction to be made to the board for licensing contractors, the register of deeds, and subsequent purchasers of the property. Amends TCA Title 13; Title 62, Chapter 6 and Title 66.

House Bill No. 2673 -- Taxes, Sales -- As introduced, defines "micro market" and "micro market display" for purposes of sales and use taxes; authorizes dealers who own and operate micro markets in multiple locations to submit to the department of revenue a single monthly sales tax

return and payment from sales made at all micro markets owned and operated by the dealer. Amends TCA Title 67.

House Bill No. 2872 -- Education -- As introduced, authorizes an LEA that develops its own adverse childhood experiences (ACEs) training program for the LEA's school personnel to offer that program partially or wholly online. Amends TCA Title 49.

House Bill No. 2907 -- Knox County -- As introduced and subject to local approval, authorizes Knox County to collect the privilege tax on occupancy from transients in owner-occupied single family residences, in apartments or condominiums where less than 25 percent of the total units are rented to transients, and in single-family homes where each single-family dwelling unit occupies a separate lot. Amends Chapter 847 of the Public Acts of 1982, as amended by Chapter 628 of the Public Acts of 1996.

MOTION

Senator Johnson moved, pursuant to Rule 33 and Article II, Section 18 of the Constitution of the State of Tennessee, that **Senate Bill No. 2937** be passed on second consideration and be referred to the appropriate committees or held on the Clerk's desk, which motion prevailed.

SENATE BILLS ON SECOND CONSIDERATION

The Speaker announced the following bills passed second consideration and were referred to the appropriate committees or held on the Clerk's desk:

Senate Bill No. 2937 Local bill -- held on desk.

MOTION

Senator Johnson moved, pursuant to Rule 21, **Senate Joint Resolutions Nos. 1343 through 1344 and 1346 through 1350**; and **Senate Resolutions Nos. 175 through 177** be passed on first consideration and lie over, which motion prevailed.

INTRODUCTION OF RESOLUTIONS

The Speaker announced the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 1343 by Senator Haile.
Memorials, Academic Achievement -- Zackary Edward Morgan, Salutatorian, Station Camp High School.

Senate Joint Resolution No. 1344 by Senator Haile.
Memorials, Academic Achievement -- Sophia Carmel Edwards, Valedictorian, Station Camp High School.

Senate Joint Resolution No. 1346 by Senator McNally.
Memorials, Recognition -- Donna and Tom Sullivan.

Senate Joint Resolution No. 1347 by Senator Bell.
Memorials, Interns -- Lexi Bramer.

Senate Joint Resolution No. 1348 by Senator Crowe.
Memorials, Death -- Douglas Wayne Buckles.

Senate Joint Resolution No. 1349 by Senator Crowe.
Memorials, Sports -- Coach Jason Shay.

Senate Joint Resolution No. 1350 by Senator Crowe.
Memorials, Recognition -- Tanya Tucker, Grammy Award for Best Country Album.

Senate Resolution No. 175 by Senator Akbari.
Memorials, Recognition -- Juneteenth Commemoration.

Senate Resolution No. 176 by Senator Akbari.
Memorials, Professional Achievement -- Dr. Vincent J. Hunter, Shelby County Principal of the Year.

Senate Resolution No. 177 by Senator Yager.
Memorials, Death -- Lucy Lobertini.

MOTION

Senator Johnson moved, pursuant to Rule 21, **House Joint Resolutions Nos. 778, 828, 1198 through 1202, 1204 through 1207 and 1210 through 1212; Senate Joint Resolutions Nos. 1330 through 1342; and Senate Resolutions Nos. 164 through 174** lie over and be referred to the appropriate committees or held on the Clerk's desk, which motion prevailed.

RESOLUTIONS LYING OVER

The Speaker announced the following resolutions passed second consideration and were referred to the appropriate committees or held on the desk, pursuant to Rule 21:

House Joint Resolution No. 778 -- General Assembly, Statement of Intent or Position -- Urges the US Army Corps of Engineers to comply with Tennessee law in its administration of water projects in the State of Tennessee.

The Speaker announced that he had referred House Joint Resolution No. 778 to the Committee on Energy, Ag., and Nat. Resources.

House Joint Resolution No. 828 -- General Assembly, Statement of Intent or Position -- Recognizes the importance of the honeybee and pollinators to the agricultural industry of Tennessee.

The Speaker announced that he had referred House Joint Resolution No. 828 to the Committee on Energy, Ag., and Nat. Resources.

House Joint Resolution No. 1198 -- Memorials, Heroism -- Matthew C. "Curt" Jones .

The Speaker announced that he had referred House Joint Resolution No. 1198 to the Committee on Calendar.

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House Joint Resolution No. 1199 -- Memorials, Recognition -- Joey Wilson, 2020 president of the Tennessee Road Builders Association.

The Speaker announced that he had referred House Joint Resolution No. 1199 to the Committee on Calendar.

House Joint Resolution No. 1200 -- Memorials, Death -- Johnny Majors.

The Speaker announced that he had referred House Joint Resolution No. 1200 to the Committee on Calendar.

House Joint Resolution No. 1201 -- Memorials, Professional Achievement -- John C. Pope, 2019-2020 President of the Lebanon Noon Rotary Club.

The Speaker announced that he had referred House Joint Resolution No. 1201 to the Committee on Calendar.

House Joint Resolution No. 1202 -- Memorials, Interns -- Chiquita Gray.

The Speaker announced that he had referred House Joint Resolution No. 1202 to the Committee on Calendar.

House Joint Resolution No. 1204 -- Memorials, Death -- James L. Bass, Jr.

The Speaker announced that he had referred House Joint Resolution No. 1204 to the Committee on Calendar.

House Joint Resolution No. 1205 -- Memorials, Retirement -- Denise Henry.

The Speaker announced that he had referred House Joint Resolution No. 1205 to the Committee on Calendar.

House Joint Resolution No. 1206 -- Memorials, Retirement -- Susan Hinton.

The Speaker announced that he had referred House Joint Resolution No. 1206 to the Committee on Calendar.

House Joint Resolution No. 1207 -- Memorials, Retirement -- Walteen Carter Parker.

The Speaker announced that he had referred House Joint Resolution No. 1207 to the Committee on Calendar.

House Joint Resolution No. 1210 -- Memorials, Retirement -- Linda Bottoms.

The Speaker announced that he had referred House Joint Resolution No. 1210 to the Committee on Calendar.

House Joint Resolution No. 1211 -- Memorials, Retirement -- Sandra Campbell.

The Speaker announced that he had referred House Joint Resolution No. 1211 to the Committee on Calendar.

House Joint Resolution No. 1212 -- Memorials, Death -- George Floyd.

The Speaker announced that he had referred House Joint Resolution No. 1212 to the Committee on Calendar.

Senate Joint Resolution No. 1330 -- Memorials, Death -- Johnny Majors.

The Speaker announced that he had referred Senate Joint Resolution No. 1330 to the Committee on Calendar.

Senate Joint Resolution No. 1331 -- Memorials, Retirement -- Carol Camp White.

The Speaker announced that he had referred Senate Joint Resolution No. 1331 to the Committee on Calendar.

Senate Joint Resolution No. 1332 -- General Assembly, Statement of Intent or Position -- Express support for the Hidden Heroes program, honoring our military and veteran caregivers.

The Speaker announced that he had referred Senate Joint Resolution No. 1332 to the Committee on State and Local Government.

Senate Joint Resolution No. 1333 -- Memorials, Recognition -- Lieutenant Ryan Holt.

The Speaker announced that he had referred Senate Joint Resolution No. 1333 to the Committee on Calendar.

Senate Joint Resolution No. 1334 -- Memorials, Retirement -- Janell Cecil.

The Speaker announced that he had referred Senate Joint Resolution No. 1334 to the Committee on Calendar.

Senate Joint Resolution No. 1335 -- Memorials, Recognition -- Daniel Chandler.

The Speaker announced that he had referred Senate Joint Resolution No. 1335 to the Committee on Calendar.

Senate Joint Resolution No. 1336 -- Memorials, Recognition -- Tony Hysmith, Henderson- Chester County Chamber of Commerce Outstanding Citizen of the Year.

The Speaker announced that he had referred Senate Joint Resolution No. 1336 to the Committee on Calendar.

Senate Joint Resolution No. 1337 -- Memorials, Death -- Grady W. Turnbow, Jr.

The Speaker announced that he had referred Senate Joint Resolution No. 1337 to the Committee on Calendar.

Senate Joint Resolution No. 1338 -- Memorials, Death -- John David Adams.

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The Speaker announced that he had referred Senate Joint Resolution No. 1338 to the Committee on Calendar.

Senate Joint Resolution No. 1339 -- Memorials, Death -- Dorothy Irene Walker Mabry.

The Speaker announced that he had referred Senate Joint Resolution No. 1339 to the Committee on Calendar.

Senate Joint Resolution No. 1340 -- Memorials, Death -- Loyd King.

The Speaker announced that he had referred Senate Joint Resolution No. 1340 to the Committee on Calendar.

Senate Joint Resolution No. 1341 -- Memorials, Death -- Micheal Ann Russell.

The Speaker announced that he had referred Senate Joint Resolution No. 1341 to the Committee on Calendar.

Senate Joint Resolution No. 1342 -- Memorials, Personal Occasion -- Alene Chambers Pettigrew, 100th birthday.

The Speaker announced that he had referred Senate Joint Resolution No. 1342 to the Committee on Calendar.

Senate Resolution No. 164 -- Memorials, Recognition -- Office of the Chief Clerk of the Senate of the 111th General Assembly.

The Speaker announced that he had referred Senate Resolution No. 164 to the Committee on Calendar.

Senate Resolution No. 165 -- Memorials, Recognition -- Office of Legislative Administration of the 111th General Assembly.

The Speaker announced that he had referred Senate Resolution No. 165 to the Committee on Calendar.

Senate Resolution No. 166 -- Memorials, Recognition -- Office of Legal Services of the 111th General Assembly.

The Speaker announced that he had referred Senate Resolution No. 166 to the Committee on Calendar.

Senate Resolution No. 167 -- Memorials, Recognition -- Office of Legislative Budget Analysis of the 111th General Assembly.

The Speaker announced that he had referred Senate Resolution No. 167 to the Committee on Calendar.

Senate Resolution No. 168 -- Memorials, Recognition -- Fiscal Review Committee of the 111th General Assembly.

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The Speaker announced that he had referred Senate Resolution No. 168 to the Committee on Calendar.

Senate Resolution No. 169 -- Memorials, Recognition -- Office of Legislative Information Systems of the 111th General Assembly.

The Speaker announced that he had referred Senate Resolution No. 169 to the Committee on Calendar.

Senate Resolution No. 170 -- Memorials, Recognition -- Office of Facilities Management of the 111th General Assembly.

The Speaker announced that he had referred Senate Resolution No. 170 to the Committee on Calendar.

Senate Resolution No. 171 -- Memorials, Recognition -- Senate employees of the 111th General Assembly.

The Speaker announced that he had referred Senate Resolution No. 171 to the Committee on Calendar.

Senate Resolution No. 172 -- Memorials, Death -- Judge Thomas A. Wiseman, Jr.

The Speaker announced that he had referred Senate Resolution No. 172 to the Committee on Calendar.

Senate Resolution No. 173 -- Memorials, Recognition -- Fred Earnest Pierce.

The Speaker announced that he had referred Senate Resolution No. 173 to the Committee on Calendar.

Senate Resolution No. 174 -- Memorials, Recognition -- Basil Maynard Human, Jr.

The Speaker announced that he had referred Senate Resolution No. 174 to the Committee on Calendar.

NOTICE

MESSAGE FROM THE HOUSE

June 8, 2020

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2202; substituted for House Bill on same subject, amended, and passed by the House.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

June 9, 2020

WEDNESDAY, JUNE 10, 2020 -- 62ND LEGISLATIVE DAY

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2533; substituted for House Bill on same subject, amended, and passed by the House.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

June 9, 2020

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2049; substituted for House Bill on same subject, amended, and passed by the House.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 811; substituted for House Bill on same subject, amended, and passed by the House.

TAMMY LETZLER
Chief Clerk

MOTION

Senator Robinson moved that Rule 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Resolution No. 180**, out of order, which motion prevailed.

INTRODUCTION OF RESOLUTION

Senate Resolution No. 180 -- Memorials, Professional Achievement -- Dr. Vincent Hunter, Shelby County Principal of the Year.

On motion of Senator Robinson, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Resolution No. 180** was adopted.

A motion to reconsider was tabled.

CONSENT CALENDAR

Senate Joint Resolution No. 1318 -- Memorials, Recognition -- Eastman, 100th anniversary.

Senate Joint Resolution No. 1329 -- Memorials, Sports -- East Tennessee State University Buccaneers men's basketball team.

Senate Resolution No. 163 -- Memorials, Interns -- James Harris.

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House Joint Resolution No. 1193 -- Memorials, Academic Achievement -- Holly Caroline Evans, Salutatorian, DeKalb County High School.

House Joint Resolution No. 1194 -- Memorials, Academic Achievement -- Anna Katherine Chew, Valedictorian, DeKalb County High School.

House Joint Resolution No. 1195 -- Memorials, Sports -- Greg Armstrong, 2019 "King of the Road".

House Joint Resolution No. 1196 -- Memorials, Death -- Dr. Robert Harold O'Bannon.

House Joint Resolution No. 1197 -- Memorials, Interns -- Emma Scudder.

Senator Jackson moved that all Senate Joint Resolutions and Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbrow and Mr. Speaker McNally--29.

A motion to reconsider was tabled.

CONSENT CALENDAR NO. 2

Objections having been raised, the following bills were placed at the heel of the calendar for Thursday, June 11, 2020, pursuant to Rule 38: **Senate Bills Nos. 2115 and 1782.**

Senate Bill No. 1809 -- Correctional Programs -- As introduced, authorizes TRICOR to enter contractual agreements with counties and cities to provide work training programs for prisoners incarcerated in county and city jails. Amends TCA Title 41, Chapter 22, Part 4.

On motion, Senate Bill No. 1809 was made to conform with **House Bill No. 2120.**

On motion, House Bill No. 2120, on same subject, was substituted for Senate Bill No. 1809.

Senate Bill No. 2741 -- Courts -- As introduced, allows a court to temporarily hold court proceedings in a courthouse or other room located outside the county seat under specific circumstances. Amends TCA Section 16-1-105.

Senate Bill No. 2915 -- Knox County -- As introduced and subject to local approval, authorizes Knox County to collect the privilege tax on occupancy from transients in owner-occupied single family residences, in apartments or condominiums where less than 25 percent of the total units are rented to transients, and in single-family homes where each single-family dwelling unit occupies a separate lot. Amends Chapter 847 of the Public Acts of 1982, as amended by Chapter 628 of the Public Acts of 1996.

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On motion, Senate Bill No. 2915 was made to conform with **House Bill No. 2907**.

On motion, House Bill No. 2907, on same subject, was substituted for Senate Bill No. 2915.

Senate Joint Resolution No. 849 -- General Assembly, Confirmation of Appointment -- James Haltom, Claims Commission.

Senate Joint Resolution No. 1010 -- General Assembly, Confirmation of Appointment -- David Golden, Registry of Election Finance.

Senate Joint Resolution No. 1011 -- General Assembly, Confirmation of Appointment -- Paige Burcham Dennis, Registry of Election Finance.

Senator Jackson moved that all Senate Joint Resolutions be adopted; and all Senate Bills and House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbrow and Mr. Speaker McNally--29.

A motion to reconsider was tabled.

MOTION

Senator Johnson moved that Rules 19 and 44 be suspended for the purpose of considering the Message Calendar next, which motion prevailed.

MESSAGE CALENDAR

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2049 -- Food and Food Products -- As introduced, establishes standards for proper branding of meat and poultry as "Tennessee-raised" for purposes of the Tennessee Food, Drug and Cosmetic Act. Amends TCA Title 44 and Title 53.

HOUSE AMENDMENT NO. 1

AMEND by deleting the effective date section and substituting instead the following:

SECTION _____. This act shall take effect October 1, 2020, the public welfare requiring it.

Senator Niceley moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2049**, which motion prevailed by the following vote:

Ayes 29
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Noes 0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbro and Mr. Speaker McNally--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2202 -- Tobacco, Tobacco Products -- As introduced, makes various changes to state law to reflect the change in federal law that raised the minimum age to purchase tobacco products from 18 years of age to 21 years of age. Amends TCA Section 1-3-113; Title 39, Chapter 15 and Title 39, Chapter 17.

HOUSE AMENDMENT NO. 1

AMEND by inserting the following sections immediately preceding the last section and by renumbering the last section accordingly:

SECTION ___. Tennessee Code Annotated, Section 39-15-409, is amended by deleting the period at the end of the section and substituting instead the following:

; provided, that a violation of this section by a minor who is eighteen (18) years of age or older is a Class C misdemeanor and such minor is subject to the jurisdiction of the appropriate general sessions court.

SECTION ___. Tennessee Code Annotated, Section 39-15-410(b), is amended by deleting the period at the end of the subsection and substituting instead the following:

; provided, that a violation of this subsection (b) by a minor who is eighteen (18) years of age or older is a Class C misdemeanor and such minor is subject to the jurisdiction of the appropriate general sessions court.

Senator Hensley moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2202**, which motion prevailed by the following vote:

Ayes 20
Noes 6
Present, not voting . . . 2

Senators voting aye were: Akbari, Briggs, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kyle, Lundberg, Massey, Powers, Reeves, Robinson, Southerland, Stevens, Watson, White, Yager and Mr. Speaker McNally--20.

Senators voting no were: Bailey, Bell, Gardenhire, Kelsey, Niceley and Pody--6.

Senators present and not voting were: Roberts and Yarbro--2.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2533 -- Game and Fish Laws -- As introduced, extends the exemption from licensure to hunt and fish on farmlands owned by a spouse, parent, or grandparent, to include spouses of children of landowners. Amends TCA Title 70.

HOUSE AMENDMENT NO. 1

AMEND by deleting the effective date section and substituting instead the following:

SECTION _____. This act shall take effect October 1, 2020, the public welfare requiring it.

Senator Southerland moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2533**, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbro and Mr. Speaker McNally--29.

A motion to reconsider was tabled.

MOTION

Senator Kelsey moved Senate Bill No. 1009 be moved to the Calendar for Thursday, June 11, 2020, which motion prevailed.

MOTION

Mr. Speaker McNally moved Senate Bill No. 2620 be moved to the Calendar for Thursday, June 11, 2020, which motion prevailed.

CALENDAR

Senate Bill No. 2199 -- Holidays and Days of Special Observance -- As introduced, deletes the requirement that the governor proclaim July 13 as Nathan Bedford Forrest Day. Amends TCA Title 15, Chapter 2.

On motion of Senator Briggs, Amendment No. 1 was withdrawn.

Senator Gilmore moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 15-2-101, is amended by deleting the language "July 13, "Nathan Bedford Forrest Day";".

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Johnson moved that Amendment No. 2 go to the table, which motion prevailed.

Thereupon, **House Bill No. 2266** passed its third and final consideration by the following vote:

Ayes 22
Noes 6

Senators voting aye were: Bailey, Bell, Briggs, Gardenhire, Gresham, Haile, Jackson, Johnson, Kelsey, Lundberg, Massey, Niceley, Powers, Reeves, Roberts, Rose, Southerland, Stevens, Watson, White, Yager and Mr. Speaker McNally--22.

Senators voting no were: Akbari, Gilmore, Kyle, Pody, Robinson and Yarbro--6.

A motion to reconsider was tabled.

**STATEMENT OF SENATOR KYLE
PURSUANT TO RULE 61**

Remarks of Senator Sarah Kyle on Senate Bill 2199/House Bill No. 2266, pursuant to Rule 61.

I was hoping to set the record straight on my views on this bill. When the Governor originally filed it back in January, it only eliminated Nathan Bedford Forrest Day from our code.

Now, this bill with amendment #1, seems to allow the Governor to simply not proclaim ANY official day of special observance.

If so, that really bothers me, as many members of this General Assembly felt that it was very important that the Governor honor some of these individuals with special days of observance like:

Rosa Parks Day
Harriet Tubman Day
Wilma Rudolph Day
Vietnam Veterans' Day
Statehood Day
Family Day
And even Mother's Day

It's clear, with this bill, as amended, not only are we allowing the Governor to NOT proclaim Nathan Bedford Forrest Day as a day of special observance, but we are also allowing him to NOT proclaim special days of observance for any individual. And I don't think that's right.

We should pay tribute to those individuals who have served our state and our nation with dignity and honor and again, truly deserve these special days of observance.

Senate Bill No. 2312 -- Hospitals and Health Care Facilities -- As introduced, makes various changes to the certificate of need process for healthcare facilities and services. Amends TCA Title 68, Chapter 11, Part 16.

Senator Haile moved that Amendment No. 1 be placed at the heel of the Amendments, which motion prevailed.

On motion of Senator Gardenhire, Amendment No. 2 was withdrawn.

Senator Watson moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting the amendatory language of SECTION 1 and substituting instead the following:

As used in this part:

(1) "Agency" and "health services and development agency" mean the agency created by this part to develop the criteria and standards to guide the agency when issuing certificates of need; to conduct studies related to health care, including needs assessments; and to administer the certificate of need program and related activities;

(2) "Certificate of need" means a permit granted by the health services and development agency to any person for those services specified as requiring a certificate of need under § 68-11-1607 at a designated location;

(3) "Conflict of interest" means any matter before the agency in which the member or employee of the agency has a direct or indirect interest that is in conflict or gives the appearance of conflict with the discharge of the member's or employee's duties;

(4) "Department" means the department of health;

(5) "Direct interest" means a pecuniary interest in the persons involved in a matter before the agency, and applies to the agency member or employee, the agency member's or employee's relatives, or an individual with whom or business in which the member or employee has a pecuniary interest. As used in this subdivision (5), "relative" means a spouse, parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, or nephew by blood, marriage, or adoption;

(6) "Ex parte communications" means communications in violation of § 4-5-304 or § 68-11-1607(d);

(7) "Facility" means any real property owned, leased, or used by a healthcare institution for any purpose, other than as an investment;

(8) "Health service" means clinically related services, such as diagnostic, treatment, or rehabilitative services, and includes those services specified as requiring a certificate of need under § 68-11-1607;

(9) "Healthcare institution":

(A) Means any agency, institution, facility, or place, whether publicly or privately owned or operated, that provides health services and that is one (1) of the following: nursing home; hospital; ambulatory surgical treatment center; intellectual disability institutional habilitation facility; home care organization or any category of service provided by a home care organization for which authorization is required under part 2 of this chapter; outpatient diagnostic center; rehabilitation facility; residential hospice; or nonresidential substitution-based treatment center for opiate addiction; and

(B) Does not include:

(i) Ground ambulances;

(ii) Homes for the aged;

(iii) Any premises occupied exclusively as the professional practice office of a physician licensed pursuant to title 63, chapter 6, part 2 and title 63, chapter 9, or dentist licensed by the state and controlled by the physician or dentist;

(iv) Administrative office buildings of public agencies related to healthcare institutions;

(v) Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;

(vi) A mental health residential treatment facility; or

(vii) A mental health hospital;

(10) "Home care organization" means any entity licensed as such by the department that is staffed and organized to provide "home health services" or "hospice services," as defined by § 68-11-201, to patients in either their regular or temporary place of residence;

(11) "Indirect interest" means a personal interest in the persons involved in a matter before the agency that is in conflict with the discharge of the agency member's or employee's duties;

(12) "Letter of intent" means the form prescribed by the agency that requires a brief project description, location, estimated project cost, owner of the project, and description of services to be performed;

(13) "Licensed beds" means the number of beds licensed by the agency having licensing jurisdiction over the facility;

(14) "Needs assessment" means an annual report that measures access to health care in this state, particularly as to emergency and primary care; identifies

access gaps; and serves to inform the criteria and standards for the issuance of certificates of need;

(15) "Nonresidential substitution-based treatment center for opiate addiction" includes, but is not limited to, stand-alone clinics offering methadone, products containing buprenorphine such as Subutex and Suboxone, or products containing any other formulation designed to treat opiate addiction by preventing symptoms of withdrawal;

(16) "Nursing home" has the same meaning as defined in § 68-11-201;

(17) "Nursing home bed" means:

(A) Any licensed bed within a nursing home, regardless of whether the bed is certified for medicare or medicaid services; and

(B) Any bed at a healthcare institution used as a swing bed under 42 C.F.R. § 485.645;

(18) "Patient" includes, but is not limited to, any person who has an acute or chronic physical or mental illness or injury; who is convalescent, infirm, or has an intellectual or physical disability; or who is in need of obstetrical, surgical, medical, nursing, psychiatric, or supervisory care;

(19) "Pediatric patient" means a patient who is seventeen (17) years of age or younger;

(20) "Person":

(A) Means any individual, trust or estate, firm, partnership, association, stockholder, joint venture, corporation or other form of business organization, the state of Tennessee and its political subdivisions or parts of political subdivisions, and any combination of persons specified in this subdivision (20), public or private; and

(B) Does not include the United States or any agency or instrumentality of the United States, except in the case of voluntary submission to the rules established pursuant to this part;

(21) "Planning division" and "state health planning division" means the state health planning division of the department, which is created by this part to develop the state health plan and to conduct other related studies;

(22) "Rehabilitation facility" means an inpatient or residential facility that is operated for the primary purpose of assisting in the rehabilitation of physically disabled persons through an integrated program of medical and other services that is provided under professional supervision;

(23) "Review cycle" means the timeframe set for the review and initial decision on applications for certificate of need applications that have been deemed

complete, with the fifteenth day of the month being the first day of the review cycle;
and

(24) "State health plan" means the plan that is developed by the state health planning division pursuant to this part.

AND FURTHER AMEND by deleting the amendatory language of SECTION 6 and substituting instead the following:

In addition to the powers granted elsewhere in this part, the agency has the duty and responsibility to:

(1) Develop criteria and standards to guide the agency when issuing certificates of need that are:

(A) Based, in whole or in part, upon input the agency received during development of the criteria and standards from the division of TennCare, or its successor; the departments of health, mental health and substance abuse services, and intellectual and developmental disabilities; the health and welfare committee of the senate; and the health committee of the house of representatives;

(B) Evaluated and updated not less than once every five (5) years;
and

(C) Developed by rule in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(2) Receive and consider applications for certificates of need, to review recommendations on certificates of need, and to grant or deny certificates of need on the basis of the merits of the applications within the context of the local, regional, and state health needs, including, but not limited to, the criteria and standards developed in accordance with this part;

(3) Conduct studies related to health care, including a needs assessment that must be updated at least annually;

(4) Promulgate rules and policies deemed necessary by the agency for the fulfillment of its duties and responsibilities under this part, including a procedure for the issuance of a certificate of need upon an emergency application if an unforeseen event necessitates the issuance of a certificate of need to protect the public health, safety, and welfare, and if the public health, safety, and welfare would be unavoidably jeopardized by compliance with the procedures established under this part;

(5) Contract when necessary for the development of criteria and standards to guide the agency when issuing certificates of need and for the implementation of the certificate of need program described in this part;

(6) Weigh and consider access to quality health care and the healthcare needs of consumers, particularly those in underserved communities; those who are uninsured or underinsured; women and racial and ethnic minorities; TennCare or

medicaid recipients; and low income groups whenever the agency performs its duties or responsibilities assigned by law; and

(7) Issue exemptions from the voiding of a certificate of need and any activity authorized by the certificate of need pursuant to § 68-11-1609(i), if the actions the certificate of need authorizes are not performed for a continuous period of one (1) year after the certificate of need is implemented.

AND FURTHER AMEND by deleting the amendatory language of SECTION 7 and substituting instead the following:

(c) The executive director has the following duties:

(1) Administer the development of criteria and standards to guide the agency when issuing certificates of need;

(2) Administer the certificate of need program;

(3) Conduct studies related to health care;

(4) Represent the agency before the general assembly;

(5) Oversee the issuance of responses to requests for determination regarding the applicability of this part;

(6) Issue exemptions from the requirement that a certificate of need be obtained for the relocation of existing or certified facilities providing healthcare services and healthcare institutions under § 68-11-1607(a)(4);

(7) Keep a written record of all proceedings and transactions of the agency, which must be open to public inspection during regular office hours;

(8) Prepare the agenda, including consent and emergency calendars, and notice to the general public of all meetings and public hearings of the agency;

(9) Employ personnel, within the agency's budget, to assist in carrying out this part;

(10) Carry out all policies and rules that are promulgated by the agency and supervise the expenditure of funds; and

(11) Submit a proposal to the general assembly no later than January 1, 2021, detailing objectives, governance issues, costs, and implementation timelines of a state all payer claims database.

AND FURTHER AMEND by deleting subsection (a) from the amendatory language of SECTION 10 and substituting instead the following:

(a) A person shall not perform the following actions in this state, except after applying for and receiving a certificate of need for the same:

(1) The construction, development, or other establishment of any type of healthcare institution as described in this part. However, a certificate of need is not required for the establishment of an outpatient diagnostic center in any county with a population in excess of one hundred seventy-five thousand (175,000), according to the 2010 federal census or any subsequent federal census;

(2) In the case of a healthcare institution, any change in the bed complement, regardless of cost, that:

(A) Increases by one (1) or more the number of nursing home beds;

(B) Redistributes beds from any category to acute, rehabilitation, child and adolescent psychiatric, adult psychiatric, or long-term care; or

(C) Relocates beds to another facility or site;

(3) Initiation of any of the following healthcare services: burn unit, neonatal intensive care unit, open heart surgery, organ transplantation, cardiac catheterization, linear accelerator, home health, hospice, or opiate addiction treatment provided through a nonresidential substitution-based treatment center for opiate addiction;

(4)

(A) A change in the location of existing or certified facilities providing healthcare services and healthcare institutions;

(B) However, the executive director may issue an exemption for the relocation of existing healthcare institutions and approved services when the executive director determines:

(i) That at least seventy-five percent (75%) of patients to be served are reasonably expected to reside in the same zip codes as the existing patient population; and

(ii) That the relocation would not reduce access to consumers, particularly those in underserved communities; those who are uninsured or underinsured; women and racial and ethnic minorities; TennCare or medicaid recipients; and low income groups. The executive director must notify the agency of any exemption granted pursuant to this subdivision (a)(4)(B); and

(C) The relocation of the principal office of a home care organization or hospice within its licensed service area does not require a certificate of need;

(5) Initiation of magnetic resonance imaging:

(A) In any county with a population in excess of one hundred seventy-five thousand (175,000), according to the 2010 federal census or any subsequent federal census, only for providing magnetic resonance imaging to pediatric patients; and

(B) In any county with a population of one hundred seventy-five thousand (175,000) or less, according to the 2010 federal census or any subsequent federal census, for providing magnetic resonance imaging to any patients;

(6) Increasing the number of magnetic resonance imaging machines, in any county with a population of one hundred seventy-five thousand (175,000) or less, according to the 2010 federal census or any subsequent federal census, by one (1) or more, except for replacing or decommissioning an existing machine;

(7) Establishing a satellite emergency department facility or a satellite inpatient facility by a hospital at a location other than the hospital's main campus; and

(8) Initiation of positron emission tomography in any county with a population of one hundred seventy-five thousand (175,000) or less, according to the 2010 federal census or any subsequent federal census. However, a provider of positron emission tomography established without a certificate of need pursuant to this subdivision (a)(8) must become accredited by the American College of Radiology within two (2) years of the date of licensure.

AND FURTHER AMEND by deleting subsection (g) from the amendatory language of SECTION 10 and substituting instead the following:

(g) After a person holding a certificate of need has completed the actions for which a certificate of need was granted, the time to complete activities authorized by the certificate of need expires.

AND FURTHER AMEND by deleting subdivision (m)(2) from the amendatory language of SECTION 10 and substituting instead the following:

(2) In any county with a population in excess of one hundred seventy-five thousand (175,000), according to the 2010 federal census or any subsequent federal census, any person who initiates magnetic resonance imaging services shall notify the agency in writing that imaging services are being initiated and shall indicate whether pediatric patients will be provided imaging services.

AND FURTHER AMEND by deleting subsection (o) from the amendatory language of SECTION 10 and substituting instead the following:

(o) After receiving a certificate of need, an outpatient diagnostic center shall become accredited by the American College of Radiology in the modalities provided by that facility within a period of time set by rule by the agency as a condition of receiving a certificate of need. An outpatient diagnostic center established without a

certificate of need in a county with a population of one hundred seventy-five thousand (175,000) or less, according to the 2010 federal census or any subsequent federal census, must become accredited by the American College of Radiology in the modalities provided by that facility within two (2) years of the date of licensure.

AND FURTHER AMEND by deleting subsection (p) from the amendatory language of SECTION 10 and substituting instead the following:

(p)

(1) Notwithstanding this title to the contrary, no certificate of need is required for a hospital to operate a nonresidential substitution-based treatment center for opiate addiction if the treatment center is located on the same campus as the operating hospital and the hospital is licensed under title 33.

(2) For purposes of this subsection (p), "campus" has the same meaning as defined in 42 CFR § 413.65.

AND FURTHER AMEND by deleting subsection (q) from the amendatory language of SECTION 10 and substituting instead the following:

(q)

(1) This part does not require a certificate of need for any actions in a county that, as of January 1, 2020:

(A) Is designated as an economically distressed eligible county by the department of economic and community development pursuant to § 67-6-104, as updated annually; and

(B) Has no hospital that is actively licensed under this title located within the county.

(2) Any person that provides positron emission tomography services or magnetic resonance imaging services pursuant to this subsection (q) must be accredited by the Joint Commission or American College of Radiology in the modalities provided by that person within two (2) years of the initiation of service.

AND FURTHER AMEND by deleting subsection (r) from the amendatory language of SECTION 10 and substituting instead the following:

(r) This part does not require a certificate of need to establish a home care organization limited to providing home health services under the federal Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) (42 U.S.C. § 7384, et seq.), or any subsequent amendment, revision, or modification to the EEOICPA. Any license issued by the department pursuant to this subsection (r) for services under the EEOICPA must be limited to the provision of only those services. Any home care organization providing home health services without a certificate of need pursuant to this subsection (r) must be accredited by the Joint

Commission, the Community Health Accreditation Partner, or the Accreditation Commission for Health Care.

AND FURTHER AMEND by deleting subsection (s) from the amendatory language of SECTION 10 and substituting instead the following:

(s)

(1) This part does not require a certificate of need to establish a home care organization limited to providing home health services to patients less than eighteen (18) years of age. Any license issued by the department pursuant to this subsection (s) for the provision of home health services to patients under eighteen (18) years of age must be limited to the provision of only those services.

(2) The agency may permit a home care organization providing home health services to patients under eighteen (18) years of age to continue providing home health services to the patient until the patient reaches twenty-one (21) years of age if:

(A) The patient received home health services from the home care organization prior to the date the patient reached eighteen (18) years of age; and

(B) The home health services are provided under a TennCare program.

(3) Any home care organization that provides home health services without a certificate of need pursuant to this subsection (s) must be accredited by:

(A) An accrediting organization with deeming authority from the federal centers for medicare and medicaid services;

(B) The Joint Commission;

(C) The Community Health Accreditation Partner; or

(D) The Accreditation Commission for Health Care.

AND FURTHER AMEND by deleting from subsection (b) in SECTION 12 the language "Until the agency adopts its own criteria and standards by rule" and substituting instead the language "Until the agency adopts its own criteria and standards".

AND FURTHER AMEND by deleting subsection (c) from the amendatory language of SECTION 12 and substituting instead the following:

(c) Activity authorized by a certificate of need must be completed within a period not to exceed three (3) years for hospital projects, and two (2) years for all other projects, from the date of its issuance and after such time the certificate of need authorization expires. However, the agency may, in granting the certificate of need,

allow longer periods of validity for certificates of need for good cause shown. Subsequent to granting the certificate of need, the agency may extend a certificate of need for a period upon application and good cause shown, accompanied by a nonrefundable reasonable filing fee, as prescribed by rule. A certificate of need authorization that has been extended expires at the end of the extended time period. The decision whether to grant an extension is within the sole discretion of the agency and is not subject to review, reconsideration, or appeal.

AND FURTHER AMEND by deleting subsection (d) from the amendatory language of SECTION 12 and substituting instead the following:

(d) If the time period authorized by a certificate of need has expired, then the certificate of need authorization is void. No revocation proceeding is required. No license or occupancy approval may be issued by the department of health or the department of mental health and substance abuse services for any activity for which a certificate of need has become void.

AND FURTHER AMEND by deleting subsection (i) from the amendatory language of SECTION 12 and substituting instead the following:

(i)

(1) Notwithstanding any law to the contrary, and except as provided in subdivision (i)(2), a certificate of need and any activity it authorizes becomes void if the actions it authorizes have not been performed for a continuous period of one (1) year after the date the certificate of need is implemented. With respect to a home care organization, this subsection (i) applies to each county for which the home care organization is licensed. No revocation proceeding is required. The department of health and the department of mental health and substance abuse services shall not issue or renew a license for any activity for which certificate of need authorization has become void.

(2)

(A) The agency may issue a temporary exemption to subdivision (i)(1) upon finding that sufficient cause for the temporary cessation of the activity has been presented to the agency along with a plan to resume the activity in the future.

(B) The agency shall prescribe the procedures for issuing temporary exemptions by rule.

(C) The agency's approval or denial of a temporary exemption is a final agency decision subject to appeal in the chancery court of Davidson County.

(3) This subsection (i) does not apply to the establishment of a healthcare institution or a healthcare institution's number of licensed beds if the healthcare institution has a license issued under this title, whether active or inactive.

AND FURTHER AMEND by deleting the amendatory language of SECTION 14 and substituting instead the following:

(i) All costs of the contested case proceeding and any appeals, including the administrative law judge's costs and deposition costs, such as expert witness fees and reasonable attorney's fees, must be assessed against the losing party in the contested case. If there is more than one (1) losing party, then the costs must be divided equally among the losing parties. Costs must not be assessed against the agency or against any applicant for a certificate of need who is defending the approval of the applicant's certificate of need application.

AND FURTHER AMEND by deleting from SECTION 17 the language "seven (7) business days" wherever it appears and substituting instead the language "fourteen (14) business days".

AND FURTHER AMEND by deleting SECTION 23 and substituting instead the following:

SECTION 23. Tennessee Code Annotated, Section 68-11-1623, is amended by deleting the section and substituting the following:

(a) All fees and civil penalties authorized by this part must be paid by the health services and development agency or the collecting agency to the state treasurer and deposited in the state general fund and credited to a separate account for the agency. Fees include, but are not limited to, fees for the application of certificates of need, subscriptions, project cost overruns, copying, and contested cases. Disbursements from that account may only be made for the purpose of defraying expenses incurred in the implementation and enforcement of this part by the agency. Funds remaining in the account at the end of any fiscal year do not revert to the general fund but remain available for expenditure in accordance with law.

(b) The agency shall prescribe fees by rule as authorized by this part. The fees must be in an amount that, in addition to the fees prescribed in subsection (c), provides for the cost of administering the implementation and enforcement of this part by the agency. Fees prescribed by the agency must be adjusted as necessary to provide that the account is fiscally self-sufficient and that revenues from fees do not exceed necessary and required expenditures.

(c) The department of health shall annually collect the following schedule of fees from healthcare providers, and the fees must be paid to the state treasurer and deposited in the state general fund and credited to the agency's separate account. The following schedule applies:

- (1) Residential hospice \$100 per license;
- (2) Nursing homes 1-50 beds \$500 per license;

- (3) Nursing homes 51-100 beds \$1,500 per license;
- (4) Nursing homes 101+ beds \$2,500 per license;
- (5) Hospitals 1-100 beds \$2,000 per license;
- (6) Hospitals 101-200 beds \$3,500 per license;
- (7) Hospitals 201+ beds \$5,000 per license;
- (8) Ambulatory surgical treatment centers \$1,000 per license;
- (9) Outpatient diagnostic centers \$1,000 per license;
- (10) Home care organizations authorized to provide home health services or hospice services \$500 per license;
- (11) Birthing Centers..... \$50 per license;
- (12) Nonresidential substitution-based treatment centers for opiate addiction \$500 per license;
- (13) Intellectual disability institutional habilitation facilities \$100 per license.

AND FURTHER AMEND by deleting SECTION 24 and substituting instead the following:

SECTION 24. Tennessee Code Annotated, Section 68-11-1625, is amended by deleting the language "department of finance and administration" wherever it appears and substituting instead the language "department of health"; by deleting subdivision (d)(2) and renumbering the remaining subdivisions accordingly; and by deleting subsections (e) and (f).

AND FURTHER AMEND by deleting SECTION 26 and substituting instead the following:

SECTION 26. Tennessee Code Annotated, Section 68-11-1628, is amended by deleting the section.

AND FURTHER AMEND by deleting SECTION 27 and substituting instead the following:

SECTION 27. Tennessee Code Annotated, Section 68-11-1629, is amended by deleting the section.

SECTION 28. Tennessee Code Annotated, Section 68-11-1631, is amended by deleting the section.

SECTION 29. Tennessee Code Annotated, Section 68-11-1632, is amended by deleting the section.

SECTION 30. Tennessee Code Annotated, Section 68-11-1633, is amended by deleting the section and substituting the following:

(a) In consultation with the department of health, the department of mental health and substance abuse services, and the department of intellectual and developmental disabilities, and subject to § 68-11-1609(h), the agency shall develop measures by rule for assessing quality for entities that, on or after July 1, 2016, receive a certificate of need under this part. In developing quality measures, the agency may seek the advice of stakeholders with respect to certificates of need for specific institutions or services.

(b) If the agency determines that an entity has failed to meet the quality measures developed under this section, then the agency shall refer that finding to the board for licensing healthcare facilities or the department of mental health and substance abuse services, whichever is appropriate, for appropriate action on the license of the entity under part 2 of this chapter.

(c) If the agency determines that an entity has failed to meet any quality measure imposed as a condition for a certificate of need by the agency, then the agency may impose penalties pursuant to § 68-11-1617 or revoke a certificate of need pursuant to § 68-11-1619.

SECTION 31. Section 23 of this act shall take effect July 1, 2020, the public welfare requiring it. The remainder of this act shall take effect January 1, 2021, the public welfare requiring it, and applies to certificate of need applications filed on or after that date.

On motion, Amendment No. 3 was adopted.

On motion of Senator Haile, Amendment No. 1 was withdrawn.

Thereupon, **Senate Bill No. 2312**, as amended, passed its third and final consideration by the following vote:

Ayes	26
Noes	2

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Jackson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yarbrow and Mr. Speaker McNally--26.

Senators voting no were: Hensley and Yager--2.

A motion to reconsider was tabled.

Senate Bill No. 2207 -- Motor Vehicles -- As introduced, extends, from September 30 to October 15 of each year, the deadline by which the governing committee of the Tennessee automobile insurance plan must submit its annual financial report to the department of commerce and insurance. Amends TCA Title 4; Title 6; Title 7; Title 12; Title 42; Title 47, Chapter 18; Title 54; Title 55; Title 56; Title 65 and Title 67.

Senator Bailey moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-1901(a), is amended by adding the following at the end of the subsection:

The surcharge or tax as applied in this subsection (a) does not apply to entities or shared vehicle owners engaged in peer-to-peer car sharing or to any gross proceeds from peer-to-peer car sharing.

SECTION 2. Tennessee Code Annotated, Section 67-4-1901(c), is amended by deleting the subsection and substituting the following:

(c) As used in this part:

(1) "Commissioner" means the commissioner of revenue;

(2) "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program;

(3) "Peer-to-peer car sharing program" means a business platform that connects motor vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration; and

(4) "Shared vehicle owner" has the same meaning as defined in § 55-12-301.

SECTION 3. Tennessee Code Annotated, Title 42, Chapter 3, Part 1, is amended by adding the following as a new section:

(a) As used in this section, "peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration.

(b) If a peer-to-peer car sharing program conducts business at an airport or otherwise uses airport facilities, then the program shall enter into a written agreement with an airport, or the entity responsible for regulating commerce at the airport, within this state.

SECTION 4. Tennessee Code Annotated, Section 67-6-102, as amended by Chapter ____ of the Public Acts of 2020 (Senate Bill 2182 / House Bill 2249), is amended by adding the following as a new subdivision under the subdivision defining the term "marketplace facilitator":

(C) "Marketplace facilitator" includes a peer-to-peer car sharing program as defined in § 67-4-1901;

SECTION 5. Tennessee Code Annotated, Title 55, Chapter 12, is amended by adding the following as a new part:

55-12-301. Part definitions.

As used in this part:

(1) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement;

(2) "Car sharing period" means the period of time:

(A) That commences with the car sharing delivery period and ends at the car sharing termination time; or

(B) If there is no car sharing delivery period, that commences with the car sharing start time and ends at the car sharing termination time;

(3) "Car sharing program agreement":

(A) Means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program; and

(B) Does not mean rental car agreement with a rental car company;

(4) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program;

(5) "Car sharing termination time" means the earliest of the following events:

(A) The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

(B) When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

(C) When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle;

(6) "Peer-to-peer car sharing":

(A) Means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and

(B) Does not include the services offered by a rental car company;

(7) "Peer-to-peer car sharing program":

(A) Means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration; and

(B) Does not include:

(i) The services offered by a rental car company; or

(ii) A service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(8) "Rental car company" means a business engaged in the rental of motor vehicles that is subject to title 67, chapter 4, part 19, and not a peer-to-peer car sharing program;

(9) "Shared vehicle":

(A) Means a vehicle that is available for sharing through a peer-to-peer car sharing program; and

(B) Does not mean a rental vehicle provided by a rental car company;

(10) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement; and

(11) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

55-12-302. Insurance coverage during car sharing period.

(a) A peer-to-peer car sharing program shall assume liability, except as provided in subsection (b), of a shared vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorist losses during the car sharing period in an amount, as stated in the peer-to-peer car sharing program agreement, that must not be less than the amount set forth in subsection (d).

(b) Notwithstanding the car sharing termination time, the assumption of liability under subsection (a) does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred; or

(2) A shared vehicle owner has acted in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the car sharing termination time, the assumption of liability under subsection (a) applies to bodily injury, property damage, uninsured and underinsured motorist, or losses by damaged third parties to the extent required for proof of financial responsibility, as defined in § 55-12-102.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that:

(1) Provides insurance coverage in amounts no less than the minimum amounts for proof of financial responsibility, as defined in § 55-12-102; and

(2)

(A) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(B) Does not exclude the use of a shared vehicle by a shared vehicle driver.

(e) The insurance requirement described under subsection (d) may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) Any combination of those described in subdivisions (e)(1)-(3).

(f) Except as otherwise provided for in this section:

(1) The insurance described in subsection (e) that is used to satisfy the insurance requirement of subsection (d) is primary during each car sharing period;

(2) If coverage is applicable through more than one (1) motor vehicle liability insurance policy as set forth in subdivision (e)(4), then the order of priority of coverage is as follows, unless one (1) policy contains a provision affirmatively stating that the policy's coverage is primary and thereby is primary during the car sharing period:

(A) A policy maintained by the shared vehicle driver is first in priority;

(B) A policy maintained by the peer-to-peer car sharing program is next in priority; and

(C) A policy maintained by the shared vehicle owner is last in priority; and

(3) If coverage is applicable through more than one (1) motor vehicle liability insurance policy as set forth in subdivision (e)(4) and more than one (1) of those policies contain a provision affirmatively stating that the policy's coverage is primary, then the order of priority of coverage is as described in subdivisions (f)(2)(A)-(C).

(g)

(1) The peer-to-peer car sharing program shall assume primary liability for a claim when:

(A) The peer-to-peer car sharing program is in whole or in part providing the insurance required under subsections (d) and (e);

(B) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

(C) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by § 55-12-305.

(2) The peer-to-peer car sharing program may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) has lapsed or does not provide the coverage required by subsection (d), then:

(1) Insurance maintained by a peer-to-peer car sharing program must provide the coverage required by subsection (d) beginning with the first dollar of a claim; and

(2) The peer-to-peer car sharing program has the duty to defend the claim, except under circumstances as set forth in subsection (b).

(i) Coverage under a motor vehicle liability insurance policy maintained by the peer-to-peer car sharing program is not dependent on another insurer first denying a claim nor is another motor vehicle liability insurance policy required to first deny a claim.

(j) This section does not:

(1) Limit the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program;

(2) Limit the ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement; or

(3) Limit the obligations of a shared vehicle owner to comply with the requirements of part 1 of this chapter.

55-12-303. Notification of implications of lien.

At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program, and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, then the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

55-12-304. Applicability to exclusions in motor vehicle liability insurance policies.

This part does not invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use, that excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

55-12-305. Recordkeeping; use of vehicle in car sharing.

(a) A peer-to-peer car sharing program shall collect, verify, and maintain the records necessary to comply with this section for a time period not less than the applicable bodily injury or property damage statute of limitations.

(b) Upon request by a shared vehicle owner, the insurer of the shared vehicle owner, a shared vehicle driver, or the insurer of a shared vehicle driver, for the purpose of assisting a claim coverage investigation, settlement, negotiation, or litigation, a peer-to-peer car sharing program shall provide the following information:

(1) The precise start and termination times for the car sharing period during which an event occurred giving rise to a claim;

(2) The information set forth in § 55-12-308(b) for the car sharing period during which an event occurred giving rise to a claim; and

(3) For the period twelve (12) hours preceding and twelve (12) hours following an event giving rise to a claim, the precise start and termination times for all car sharing periods other than the period disclosed under subdivision (b)(1), and the information set forth in § 55-12-308(b) with respect to the car sharing periods.

55-12-306. Exemption; vicarious liability.

A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability consistent with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

55-12-307. Indemnification.

Each car sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

(1) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;

(2) That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(3) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) The daily rate, fees, and if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;

(6) An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and

(7) Whether there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

55-12-308. Driver license verification and data retention.

(a) A peer-to-peer car sharing program shall not enter into a peer-to-peer car sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(1) Holds a driver license issued under the laws of this state that authorizes the driver to operate vehicles of the class of the shared vehicle;

(2) Is a nonresident who:

(A) Has a driver license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(B) Is at least the same age as that required of a resident to drive; or

(3) Otherwise is specifically authorized by the laws of this state to drive vehicles of the class of the shared vehicle.

(b) A peer-to-peer car sharing program shall keep a record of:

(1) The name and address of the shared vehicle driver;

(2) The number of the driver license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(3) The place of issuance of the driver license.

55-12-309. Responsibility for equipment.

A peer-to-peer car sharing program has sole responsibility for any equipment, such as a GPS system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of the equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing

program has the right to seek indemnity from the shared vehicle driver for any loss or damage to the equipment that occurs during the sharing period.

55-12-310. Automobile safety recalls.

(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

(2) Notify the shared vehicle owner of the requirements under subsection (b) of this section.

(b)

(1) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, then a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, then the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, then, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

55-12-311. Conflicts.

Nothing in this act shall expand or restrict in any manner the respective rights or obligations of, or limitations upon, motor vehicle manufacturers and licensed motor vehicle dealers as set forth in chapter 17, part 1 of this title. To the extent that this act conflicts with chapter 17, part 1 of this title, then chapter 17, part 1 of this title shall control.

SECTION 6. Tennessee Code Annotated, Title 56, Chapter 7, Part 11, is amended by adding the following as a new section:

56-7-1120.

(a) As used in this section:

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(1) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement;

(2) "Car sharing period" means the period of time:

(A) That commences with the car sharing delivery period and ends at the car sharing termination time; or

(B) If there is no car sharing delivery period, that commences with the car sharing start time and ends at the car sharing termination time;

(3) "Car sharing program agreement":

(A) Means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program; and

(B) Does not mean a rental car agreement with a rental car company;

(4) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program;

(5) "Car sharing termination time" means the earliest of the following events:

(A) The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

(B) When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

(C) When the shared vehicle owner, or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle;

(6) "Peer-to-peer car sharing":

(A) Means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and

(B) Does not include the services offered by a rental car company;

(7) "Peer-to-peer car sharing program":

(A) Means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration; and

(B) Does not include:

(i) The services offered by a rental car company; or

(ii) A service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(8) "Rental car company" means a business engaged in the rental of motor vehicles that is subject to title 67, chapter 4, part 19, and not a peer-to-peer car sharing program;

(9) "Shared vehicle":

(A) Means a vehicle that is available for sharing through a peer-to-peer car sharing program; and

(B) Does not mean a rental vehicle provided by a rental car company;

(10) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement; and

(11) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

(b) An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

(1) Liability coverage for bodily injury and property damage;

(2) Uninsured and underinsured motorist coverage;

(3) Medical payments coverage;

(4) Comprehensive physical damage coverage; and

(5) Collision physical damage coverage.

(c) The exclusions in subsection (b) apply notwithstanding any requirement in this title or title 55, chapter 12. This section does not require that a personal automobile insurance policy provide coverage during a car sharing period.

(d) Automobile insurers that exclude coverage as described in subsection (b) have no duty to defend or indemnify any claim expressly excluded. This section and title 55, chapter 12, do not invalidate or limit an exclusion contained in the policy, including any policy in use or approved for use in this state prior to January 1, 2021, that excludes coverage for vehicles that are rented or that are engaged in a commercial use.

(e) A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded or not covered under the terms of its policy may seek contribution from any other motor vehicle insurer providing coverage required by § 55-12-302(d), except to the extent the shared vehicle is excluded or not covered under the terms of the other policy.

(f) In a claims investigation involving a shared vehicle, the insurer of the peer-to-peer car sharing program, the insurer of the shared vehicle owner, and the insurer of the shared vehicle driver shall cooperate with each other to facilitate the exchange of relevant information, including, without limitation, records that the peer-to-peer car sharing program is required to collect under title 55, chapter 12, part 3. The insurer of the peer-to-peer car sharing program, the insurer of the shared vehicle owner, and the insurer of a shared vehicle driver shall disclose to each other a clear description of the coverage, exclusions, and limits provided in their respective policies.

(g)

(1) Notwithstanding any other law, statute, or rule to the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing period.

(2) This section does not create liability on a peer-to-peer car sharing program to maintain insurance coverage beyond the extent mandated by § 55-12-302.

(3) A peer-to-peer car sharing program may own and maintain as the named insured one (1) or more policies of motor vehicle liability insurance that provides coverage for:

(A) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;

(B) Any liability of the shared vehicle owner; or

(C) Damage or loss to the shared motor vehicle or any liability of the shared vehicle driver.

(h) This section does not preclude an insurer from providing coverage for a peer-to-peer car sharing program or a shared vehicle owner, if it chooses to do so by contract or endorsement.

SECTION 7. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 8. Section 4 of this act takes effect at 12:01 a.m. on October 1, 2020, the public welfare requiring it. Sections 3, 5, and 6 of this act take effect on January 1, 2021, the public welfare requiring it. All remaining sections of this act take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Bailey moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting SECTION 8 in its entirety and substituting instead the following:

SECTION 8. Section 4 of this act shall take effect at 12:01 a.m. on October 1, 2020, the public welfare requiring it. Sections 5 and 6 of this act shall take effect on January 1, 2021, the public welfare requiring it. Section 3 of this act shall take effect on February 1, 2021, the public welfare requiring it. All remaining sections of this act take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 2207**, as amended, passed its third and final consideration by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbrow and Mr. Speaker McNally--28.

A motion to reconsider was tabled.

Senate Bill No. 2485 -- Alcoholic Beverages -- As introduced, designates the Tennessee State Fairgrounds in Nashville as an urban park center; authorizes the granting of a franchise for the provision of food or beverage, including alcoholic beverages, on its premises; specifies that the holder of such franchise is also considered an urban park center. Amends TCA Title 57, Chapter 4.

On motion, Senate Bill No. 2485 was made to conform with **House Bill No. 1642**.

On motion, House Bill No. 1642, on same subject, was substituted for Senate Bill No. 2485.

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Thereupon, **House Bill No. 1642** passed its third and final consideration by the following vote:

Ayes 22
Noes 1
Present, not voting . . . 1

Senators voting aye were: Akbari, Bell, Briggs, Gardenhire, Gilmore, Gresham, Jackson, Johnson, Kyle, Lundberg, Massey, Niceley, Powers, Reeves, Roberts, Robinson, Rose, Watson, White, Yager, Yarbrow and Mr. Speaker McNally--22.

Senators voting no were: Hensley--1.

Senators present and not voting were: Pody--1.

A motion to reconsider was tabled.

Senate Bill No. 2487 -- Beer -- As introduced, authorizes beer retailers to sell beer, from their own inventory, online for curbside pickup at the beer retailer's location; requires that the employee bringing beer to a vehicle for curbside pickup verify that the recipient of the beer is 21 years of age or older. Amends TCA Section 57-5-103.

On motion, Senate Bill No. 2487 was made to conform with **House Bill No. 2028**.

On motion, House Bill No. 2028, on same subject, was substituted for Senate Bill No. 2487.

House Bill No. 2028 passed its third and final consideration by the following vote:

Ayes 21
Noes 1
Present, not voting. . . 1

Senators voting aye were: Akbari, Briggs, Gardenhire, Gilmore, Gresham, Jackson, Johnson, Kyle, Lundberg, Massey, Niceley, Powers, Reeves, Roberts, Robinson, Rose, Watson, White, Yager, Yarbrow and Mr. Speaker McNally--21.

Senators voting no were: Hensley--1.

Senators present and not voting were: Pody--1.

A motion to reconsider was tabled.

Senate Bill No. 2667 -- Lottery, Charitable -- As introduced, adds tickets and coupons to the types of legal instruments entitling a winner of a charitable gaming event to a non-cash prize or award. Amends TCA Title 3.

Senator Briggs moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 3-17-103(a)(1)(A), is amended by adding the following language as a new subdivision (v):

(v) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within two (2) calendar days after the effective date of this act for the annual event period beginning July 1, 2020, and ending June 30, 2021.

SECTION 2. Tennessee Code Annotated, Section 3-17-103(a)(1)(B), is amended by deleting the language "subdivisions (a)(1)(A)(ii)-(iv)" and substituting instead the language "subdivisions (a)(1)(A)(ii)-(v)".

SECTION 3. Tennessee Code Annotated, Section 3-17-103(b), is amended by adding the following language as a new subdivision (5):

(5) In addition to the omnibus listing transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(v) for the annual event period beginning July 1, 2020, and ending June 30, 2021. The list must be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within five (5) calendar days after the effective date of this act.

SECTION 4. Tennessee Code Annotated, Section 3-17-103(d)(1)(A), is amended by redesignating subdivision (d)(1)(A) as subdivision (d)(1)(A)(i) and adding the following new subdivision (d)(1)(A)(ii):

(ii) Notwithstanding any law to the contrary, an organization that is authorized to hold an annual event from the period July 1, 2020, through December 31, 2020, may hold the authorized annual event no later than sixty (60) calendar days after the event date listed in the annual event application; provided, that such authorization under this subdivision (d)(1)(A)(ii) only applies on a one-time basis.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2667**, as amended, passed its third and final consideration by the following vote:

Ayes 26
Noes 0

Senators voting aye were: Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Hensley, Jackson, Johnson, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbrow and Mr. Speaker McNally--26.

A motion to reconsider was tabled.

Senate Bill No. 2681 -- Real Property -- As introduced, increases from 15 days to 15 business days, the time period in which a person must endeavor to serve notice of a claim against a contractor, subcontractor, supplier, or design professional related to an alleged construction defect following discovery of the alleged defect. Amends TCA Title 28 and Title 66.

Senator Bailey moved that Amendment No. 1 be placed behind Amendment No. 2, which motion prevailed.

Senator Bailey moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 66-11-124(b), is amended by deleting subdivision (2) and substituting the following:

(2)

(A) If a prime contractor or remote contractor solicits any person to sign a contract requiring the person to waive a right of lien in violation of this section, then the person shall notify the state board for licensing contractors of that fact. Upon receiving the information, the executive director of the board shall notify the prime contractor or remote contractor within a reasonable time after receiving the information that the contract is against the public policy of this state and in violation of this section. If the prime contractor or remote contractor voluntarily deletes the waiver of lien provision from the contract and affirmatively states that the language will not be included in any future contracts to perform construction work in this state, then no further action shall be taken by the board against the prime contractor or remote contractor unless a later complaint is filed against the prime contractor or remote contractor for a violation of this section.

(B) If the prime contractor or remote contractor does not delete the waiver of lien provision from the contract, then the executive director shall schedule a hearing for appropriate action by the board. If the board finds after a hearing that the contracts of the prime contractor or remote contractor are in

violation of this section, then the board shall immediately revoke the prime contractor's or remote contractor's license.

(C) The board shall send notice of the revocation to the prime contractor's or remote contractor's licensing authority in all states in which the prime contractor or remote contractor is licensed as a contractor.

(D) In any action for damages based on the waiver of a right of lien filed by a person solicited by the prime contractor or remote contractor, the

person has the right to recover from the prime contractor or remote contractor reasonable attorney's fees and costs in connection with the enforcement of the lien.

SECTION 2. Tennessee Code Annotated, Section 66-11-126, is amended by deleting the language "an action" wherever it appears and substituting instead "a complaint, petition, or civil warrant"; and by deleting the language "any action" wherever it appears and substituting instead the language "any complaint, petition, or civil warrant".

SECTION 3. Tennessee Code Annotated, Section 66-11-130, is amended by deleting the section and substituting the following:

Upon written demand of the owner, the owner's agent, or prime contractor, served on the lienor, requiring the lienor to file a complaint, petition, or civil warrant to enforce the lienor's lien, and describing the real property in the demand, the proceeding must be commenced, or the claim filed in a creditors' or foreclosure proceeding, within sixty (60) days after service, or the lien is forfeited.

SECTION 4. Tennessee Code Annotated, Section 66-11-131, is amended by deleting the language "an action" and substituting instead the language "a complaint, petition, or civil warrant".

SECTION 5. Tennessee Code Annotated, Section 66-11-132, is amended by deleting the section and substituting the following:

If separate complaints, petitions, or civil warrants to enforce liens provided by this chapter are brought in the same court, then they must be consolidated; and if in different courts, the proceedings may, upon application, be removed into the court, if a court of record, in which the first complaint, petition, or civil warrant was filed, and there consolidated, unless the later proceeding is one for the benefit of all lienors, in the nature of a lien-creditors' bill, in which event earlier proceedings not of that nature must be consolidated into the lien-creditors' bill, on petition.

SECTION 6. Tennessee Code Annotated, Section 66-11-133, is amended by deleting the language "consolidated action" and substituting instead the language "consolidated proceeding".

SECTION 7. Tennessee Code Annotated, Section 66-11-134, is amended by deleting the language "enforced by an action" and substituting instead the language "enforced by a civil warrant".

SECTION 8. Tennessee Code Annotated, Section 66-11-135, is amended by deleting the language "an action" and substituting instead the language "a proceeding".

SECTION 9. Tennessee Code Annotated, Section 66-11-136, is amended by deleting the language "by action on the bond" and substituting instead the language "by filing a complaint, petition, or civil warrant against the bond".

SECTION 10. Tennessee Code Annotated, Section 66-11-139, is amended by deleting the language "in any action to enforce" and substituting instead the language "in any proceeding to enforce".

SECTION 11. Tennessee Code Annotated, Section 66-11-142, is amended by deleting the language "parties to any action" and substituting instead the language "parties to any proceeding in which the person files a complaint, petition, or civil warrant"; by deleting the language "the contractor or owner shall notify" and substituting instead the language "the prime contractor, remote contractor, or owner shall notify"; and deleting the language "The original contractor as principal" and substituting instead the language "The original prime contractor or remote contractor as principal".

SECTION 12. Tennessee Code Annotated, Section 66-11-203, is amended by deleting the section and substituting the following:

Any contractor who is about to enter into a contract, either written or oral, for improving residential real property, as that term is defined by § 66-11-146, with the owner or owners thereof shall, prior to commencing the improvement of the residential real property or making of the contract, deliver, by registered mail or otherwise, to the owner or owners of the residential real property to be improved written notice in substantially the following form:

Delivered this day of , 20 , by ,
Contractor.

The above-captioned contractor hereby gives notice to the owner of the property to be improved, that the contractor is about to begin improving the property according to the terms and conditions of the contract and that under the provisions of the state law (§§ 66-11-101 — 66-11-141) there shall be a lien upon the real property and building for the improvements made in favor of the above-mentioned contractor who does the work or furnishes the materials for such improvements for a duration of one (1) year after the work is finished or materials furnished.

Contractor

SECTION 13. Tennessee Code Annotated, Section 66-11-204, is amended by deleting the language "An owner may reject" and substituting instead the language "An owner of residential real property may reject".

SECTION 14. Tennessee Code Annotated, Section 66-11-205, is amended by deleting the section and substituting the following:

Upon completion of the contract or improvement and upon receipt of the contract price, the prime contractor shall deliver by registered mail or otherwise to the owner or owners of the real property a sworn affidavit and receipt substantially in the following form:

State of Tennessee

County of

On this day of , 20 , before me personally
appeared (if a corporation use " President (or other
officer) of (Corporate Name) a corporation"), prime contractor, to me personally

known, who being duly sworn by oath, did say that all of the persons, firms, and corporations, including the prime contractor and all remote contractors and laborers, who have furnished services, labor, or materials according to the plans or specifications, or extra items used in the construction or repair of buildings and improvements on the real estate hereinafter described, have been paid in full or will be paid in full no later than ten (10) days from the date a bill is rendered for such services, labor, or materials and that such work has been fully completed and accepted by the owner, and further that such owner has paid the contract price in full, the receipt of which is hereby acknowledged. Affiant further says that no claims have been made to affiant by, nor is any suit pending on behalf of the prime contractor or any remote contractors or laborers, and further that no chattel mortgages or conditional bills of sale have been given or are now outstanding as to any materials, appliances, fixtures, or furnishings placed upon or installed in the aforementioned premises. Affiant as a party does for a valuable consideration hereby agree and guarantee to hold the owner of the real estate, the owner's successors, heirs and assigns, harmless against any lien, claim, or suit by any remote contractor or laborer and against chattel mortgages or conditional bills of sale in conjunction with the construction of such buildings or improvements on such real estate.

The real estate and improvements referred to herein are situated in the County of _____, State of Tennessee, and are described as follows: (give street address)

Prime Contractor

Sworn to and subscribed before me

on the date above first written.

Notary Public

My Commission Expires:

SECTION 15. Tennessee Code Annotated, Section 66-11-206, is amended by deleting from subsection (c) the language "or the contractor's agent" and substituting instead the language "or the owner's agent".

SECTION 16. Tennessee Code Annotated, Section 66-34-103, is amended by deleting subsections (b)-(e) and substituting the following:

(b) The owner, whether public or private, shall release and pay all retainages for work completed pursuant to the terms of any contract to the prime contractor within ninety (90) days after completion of the work or within ninety (90) days after substantial completion of the project for work completed, whichever occurs first. As used in this subsection (b), "work completed" means the completion of the scope of the work and all terms and conditions covered by the contract under which the retainage is being held. The prime contractor shall pay all retainages due any remote contractor within ten (10) days after receipt of the retainages from the owner. Any remote contractor receiving the retainage from the prime contractor shall pay to any lower-tier remote contractor all retainages due the lower-tier remote contractor within ten (10) days after receipt of the retainages.

(c) Any default in the making of the payments is subject to those remedies provided in this part.

(d) If an owner or prime contractor withholds retainage that is for the use and benefit of the prime contractor or its remote contractors pursuant to § 66-34-104(a) and (b), then neither the prime contractor nor any of its remote contractors are required to deposit additional retained funds into an escrow account in accordance with § 66-34-104(a) and (b).

(e)

(1) It is an offense for a person, firm, or corporation to fail to comply with subsection (a) or (b) or § 66-34-104(a).

(2)

(A) A violation of this subsection (e) is a Class A misdemeanor, subject to a fine only of three thousand dollars (\$3,000).

(B) Each day a person, firm, or corporation fails to comply with subsection (a) or (b) or § 66-34-104(a) is a separate violation of this subsection (e).

(C) Until the violation of this subsection (e) is remediated by compliance, the punishment for each violation is consecutive to all other violations.

(3) In addition to the fine imposed pursuant to subdivisions (e)(2)(A) and (B), the court shall order restitution be made to the owner of the retained funds. In determining the appropriate amount of restitution, the formula stated in § 40-35-304 must be used.

(4) This subsection (e) does not apply to the state, any department, board, or agency thereof, including the University of Tennessee, all counties and municipalities, and all departments, boards, or agencies thereof, including all school and education boards, and any other subdivision of the state.

SECTION 17. Tennessee Code Annotated, Section 66-34-104, is amended by deleting the section and substituting the following:

(a) Whenever, in any contract for the improvement of real property, a certain amount or percentage of the contract price is retained, that retained amount must be deposited in a separate, interest-bearing, escrow account with a third party which must be established upon the withholding of any retainage.

(b) As of the time of the withholding of the retained funds, the funds become the sole and separate property of the prime contractor or remote contractor to whom they are owed, subject to the rights of the person withholding the retainage in the event the prime contractor or remote contractor otherwise entitled to the funds defaults on or does not complete its contract.

(c) If the party withholding the retained funds fails to deposit the funds into an escrow account as provided in this section, then the party shall pay the owner of the retained funds an additional three hundred dollars (\$300) per day as damages, not as a penalty, for each and every day that the retained funds are not deposited into an escrow account. Damages accrue from the date retained funds were first withheld and continue to accrue until placed into a separate, interest-bearing escrow account or otherwise paid.

(d) The party with the responsibility for depositing the retained amount in a separate, interest-bearing escrow account with a third party has the affirmative duty to provide written notice that the party has complied with this section to any prime contractor upon withholding the amount of retained funds from each and every application for payment, including:

(1) Identification of the name of the financial institution with which the escrow account has been established;

(2) Account number; and

(3) Amount of retained funds that are deposited in the escrow account with the third party.

(e) Upon satisfactory completion of the contract, to be evidenced by a written release by the owner, prime contractor, or remote contractor owing the retainage, all funds accumulated in the escrow account together with all interest on the account must be paid immediately to the prime contractor or remote contractor to whom the funds and interest are owed.

(f) If the owner, prime contractor, or remote contractor, as applicable, fails or refuses to execute the release provided for in subsection(e), then the prime contractor or remote contractor, as applicable, may seek equitable relief, including injunctive relief, as provided in § 66-34-602, against the owner, prime contractor, or remote contractor. Relief may not be sought against the person holding the retainage as an escrow agent, and that person bears no liability for the nonpayment of the retainage; however, a court may issue an order to the person holding retainage to pay any sums held in trust pursuant to § 66-34-205. The person paying the sums pursuant to a court order bears no liability to the owner, prime contractor, or remote contractor for the payment. All other claims, demands, disputes, controversies, and differences that may arise between the owner, prime contractor, or prime contractors, and remote contractors may be, upon written agreement of all parties concerned, settled by arbitration conducted pursuant to the Uniform Arbitration Act, compiled in title 29, chapter 5, part 3, or the Federal Arbitration Act (9 U.S.C. § 1, et seq.), as may be applicable.

(g) Subsections (c), (d), and (j) do not apply to the state and any department, board, or agency thereof, including the University of Tennessee; counties and municipalities, and all departments, boards, or agencies thereof, including all school and education boards; and any other subdivision of the state.

(h) This section applies to all prime contracts and all subcontracts thereunder for the improvement of real property when the contract amount of the prime contract is five hundred thousand dollars (\$500,000) or greater, notwithstanding the amount of the subcontracts.

(i) Compliance with this section is mandatory, and shall not be waived by contract.

(j) Failure to deposit the retained funds into an escrow account as provided in this section, within seven (7) days of receipt of written notice regarding the failure, is a Class A misdemeanor.

SECTION 18. Tennessee Code Annotated, Section 66-34-201, is amended by deleting the section and substituting the following:

Performance by a prime contractor in accordance with a written contract with an owner for improvement of real property entitles the prime contractor to payment from the owner.

SECTION 19. Tennessee Code Annotated, Section 66-34-202, is amended by deleting the section and substituting the following:

(a) If a prime contractor has performed in accordance with the prime contractor's written contract with the owner, then the owner shall pay to the prime contractor the full amount earned by the prime contractor, less only those amounts withheld in accordance with § 66-34-203. The payment must be made in accordance with the schedule for payments established within the contract and within thirty (30) days after application for payment is timely submitted by the prime contractor to the owner, in accordance with the schedule.

(b) Failure of an architect, engineer, or other agent employed by the owner to review and approve an application for payment for work which has been performed in accordance with the contract does not excuse the owner from making payment in accordance with this chapter. This section does not require payment for work not performed if an architect, engineer, or other agent has certified that a contractor has not completed performance for a portion of work covered by the application for payment.

SECTION 20. Tennessee Code Annotated, Section 66-34-203, is amended by deleting the section and substituting the following:

This chapter does not prevent the owner from reasonably withholding payment or a portion of a payment to the prime contractor, as long as the withholding is in accordance with the written contract between the owner and the prime contractor. The owner may also withhold a reasonable amount of retainage as specified in the written contract between the owner and the prime contractor, as long as the retainage amount does not exceed five percent (5%) of the amount of the contract.

SECTION 21. Tennessee Code Annotated, Section 66-34-204, is amended by deleting the language "from an architect charged with" and substituting instead the language

"from an architect or engineer charged with"; and by deleting the language "the contractor" wherever it appears and substituting instead the language "the prime contractor".

SECTION 22. Tennessee Code Annotated, Section 66-34-205, is amended by deleting the section and substituting the following:

(a) Any sums allocated by the owner or provided or committed to the owner by a third party that are intended to be used as payment for improvements made to real property by virtue of a written contract between the owner and the prime contractor must be held by the owner or third party in trust for the benefit and use of the prime contractor and its remote contractors, and are subject to all legal and equitable remedies.

(b) The presence of an otherwise valid agreement to arbitrate does not prevent a prime contractor or remote contractor from seeking equitable relief, including injunctive relief, as permitted by § 66-34-602 against any owner, prime contractor, or remote contractor.

(c) The bankruptcy or insolvency of any party is not a valid defense for the failure of an owner or other third party that controls or holds those sums described in subsection (a), as well as all retainage, to release those sums when they are otherwise due.

(d) This section does not apply to the state, including its departments, boards, or commissions, or to any institution of higher education.

SECTION 23. Tennessee Code Annotated, Section 66-34-301, is amended by deleting the section and substituting the following:

Performance by a remote contractor in accordance with a written contract with a prime contractor for improvement of real property entitles the remote contractor to payment from the prime contractor.

SECTION 24. Tennessee Code Annotated, Section 66-34-302, is amended by deleting the section and substituting the following:

(a) If a remote contractor has performed in accordance with the remote contractor's written contract with the prime contractor, then the prime contractor shall pay to the remote contractor the full amount earned by the remote contractor, subject only to any condition precedent for payment clause in the contract, and less only those amounts withheld in accordance with § 66-34-303. The payment must be made in accordance with the schedule for payments established within the contract and within thirty (30) days after application for payment is timely submitted by the remote contractor to the prime contractor, in accordance with the schedule.

(b) The prime contractor shall also pay the remote contractor its pro rata share of any interest provided for in § 66-34-601 that has been received by the prime contractor.

SECTION 25. Tennessee Code Annotated, Section 66-34-303, is amended by deleting the section and substituting the following:

This chapter does not prevent the prime contractor from reasonably withholding payment or a portion of payment to the remote contractor, as long as the withheld payment is in accordance with the written contract between the prime contractor and the remote contractor. The prime contractor may also withhold a reasonable amount of retainage as specified in the written contract between the prime contractor and remote contractor; except, that the retainage amount must not exceed five percent (5%) of the amount of the contract.

SECTION 26. Tennessee Code Annotated, Section 66-34-304, is amended by deleting the section and substituting the following:

Any sums received by the prime contractor as payment for work, services, equipment, and materials supplied by the remote contractor for improvements to real property must be held by the prime contractor in trust for the benefit and use of the remote contractor, and are subject to all legal and equitable remedies.

SECTION 27. Tennessee Code Annotated, Section 66-34-401, is amended by deleting the section and substituting the following:

A remote contractor contracting in writing with another remote contractor for the improvement of real property shall make payment to the other remote contractor in accordance with part 3 of this chapter.

SECTION 28. Tennessee Code Annotated, Section 66-34-501, is amended by deleting the section and substituting the following:

An architect or engineer furnishing design or contract administration services to an owner, prime contractor, or remote contractor for the improvement of real property is entitled to payment in accordance with part 2 of this chapter, if the architect or engineer contracts in writing with the owner; or in accordance with part 3 of this chapter, if the architect or engineer contracts in writing with a prime contractor or remote contractor.

SECTION 29. Tennessee Code Annotated, Section 66-34-601, is amended by deleting the section and substituting the following:

Any payment not made in accordance with this chapter accrues interest, from the date due until the date paid, at the rate of interest for delinquent payments provided in written contract or, if no interest rate is specified in a written contract, then one and one-half percent (1.5%) per month.

SECTION 30. Tennessee Code Annotated, Section 66-34-602, is amended by deleting the section and substituting the following:

(a)

(1) A prime contractor who has not received payment from an owner, or a remote contractor who has not received payment from a prime contractor or other remote contractor, in accordance with this chapter, or any prime contractor or remote contractor that intends to seek to recover funds as

permitted by § 66-34-205 and this section, shall notify the party failing to make payment of the notifying party's intent to seek relief against that party as provided in this chapter.

(2) The notification must be made by registered or certified mail, return receipt requested, or by another commercial delivery service that provides written confirmation of delivery.

(3) If the notified party does not, within ten (10) calendar days after receipt of the notice, make payment or provide to the notifying party a response giving adequate legal reasons for failure of the notified party to make payment, then the notifying party may, in addition to all other remedies available at law or in equity, sue for equitable relief, including injunctive relief, for continuing violations of this chapter in the chancery court of the county in which the real property is located.

(4) The failure to make the only payment due under the contract may be considered a continuing violation under this chapter.

(5) The notification required by this part may be sent separately or as part of any notice of nonpayment or other notice required under the contract and may be in substantially the following form:

This letter shall serve as notice pursuant to the Tennessee Prompt Pay Act, Tenn. Code Ann. §§ 66-34-101, et seq., of [prime contractor or remote contractor]'s intent to seek relief under the Prompt Pay Act. [Prime contractor or remote contractor] furnished [description of labor, materials, or services furnished] in furtherance of improvements to real property located at [property description] pursuant to its written contract with [lender, owner, prime contractor, or remote contractor]. [Prime contractor or remote contractor] first furnished labor, materials, or services on [insert first date] and ["is still continuing to perform" or "last furnished labor, materials, or services on (insert date)"]. If [owner, prime contractor, and/or remote contractor] fail(s) to make payment, arrange for payment, or provide a response setting forth adequate legal reasons for the failure to make payment to [prime contractor or remote contractor] within ten (10) days of your receipt of this letter, then [prime contractor or remote contractor] may, in addition to all other remedies at law or in equity, file a lawsuit for equitable relief, including injunctive relief, for continuing violations of this chapter.

(b)

(1) If an owner does not make payment to a prime contractor or furnish a response setting forth adequate legal reasons for the owner's failure to make payment within ten (10) days of receipt of the notice required by subsection (a), then the prime contractor may stop work until payment is received or until the owner provides a response setting forth adequate legal reasons for the owner's failure to make payment, as long as the prime contractor is not otherwise in default of the written contract. If, in accordance with subsection (a), the owner makes payment or provides a response setting

forth adequate legal reasons for the failure to pay the prime contractor, then the prime contractor shall not stop work pursuant to this section.

(2) If a prime contractor does not make payment to a remote contractor or furnish a response setting forth adequate legal reasons for the prime contractor's failure to make payment within ten (10) days of receipt of the notice required by subsection (a), then the remote contractor may stop work until payment is received or until the prime contractor provides a response setting forth adequate legal reasons for the prime contractor's failure to make payment, as long as the remote contractor is not otherwise in default of the written contract. If, in accordance with subsection (a), the prime contractor makes payment or provides a response setting forth adequate legal reasons for the failure to pay the remote contractor, then the remote contractor shall not stop work pursuant to this section.

(c) Any work stoppage by a prime contractor or a remote contractor in accordance with this section entitles the prime contractor or remote contractor to an extension of the contract schedule, if any, equal to the length of the work stoppage.

(d) Reasonable attorney's fees may be awarded against the nonprevailing party if the nonprevailing party acted in bad faith.

(e) A bond in the amount claimed or ordered to be paid must be filed with good sureties to be approved by the clerk prior to the issuance of any injunctive relief.

SECTION 31. Tennessee Code Annotated, Title 66, Chapter 34, Part 6, is amended by adding the following section:

(a) In addition to any rights provided for under any contract:

(1) Prior to visible commencement of operations, and upon written request by a prime contractor, the owner shall furnish a prime contractor reasonable evidence the owner has procured a loan, which may be secured by a mortgage or other encumbrance, or has otherwise made financial arrangements sufficient to make all payments in accordance with the contract;

(2) After visible commencement of operations, a prime contractor or a remote contractor may, upon the owner's failure to make payments as required by the written contract, provide notice in accordance with § 66-34-602(a). Included within the notice, a prime contractor or remote contractor may request that the owner provide reasonable evidence that the owner has made financial arrangements sufficient to fulfill its obligation to make all payments in accordance with the written contract;

(3) An owner shall provide a response to a demand for reasonable assurances within ten (10) days of receipt of the request that:

(A) Provides reasonable evidence that the owner has made financial arrangements sufficient to fulfill the owner's obligation to make all payments in accordance with the written contract, including the information set forth in § 66-34-104(d); or

(B) Provides adequate legal reasons for the owner's failure to make payment of the sums owing to the requesting party;

(4) If an owner responds to a demand for adequate assurance with reasonable evidence that the owner has made financial arrangements sufficient to fulfill the owner's obligation to make all payments in accordance with the written contract, then the owner shall not materially vary the owner's financial arrangements from those disclosed under this section without prior notice to the prime contractor or remote contractor; and

(5) A demand for reasonable assurances may be sent separately or as part of any notice of nonpayment, notice pursuant to § 66-34-602(a), or other notice required or permitted under the contract, and may be in substantially the following form:

[Prime contractor or remote contractor] furnished labor, materials, or services in furtherance of improvements to real property located at [property description] pursuant to its written contract with [owner, prime contractor, or remote contractor]. As of the date of this letter, [owner, prime contractor, or remote contractor] owes [prime contractor or remote contractor] the sum of [amount past due], which is past due or for which [prime contractor or remote contractor] asserts it has not been paid from [owner]. Such amounts were due on or before [insert due date] pursuant to the written contract between the parties. Pursuant to T.C.A. § 66-34-603, [prime contractor or remote contractor] demands [owner] furnish reasonable evidence that [owner] has made financial arrangements sufficient to fulfill its obligation to make all payments in accordance with the written contract or setting forth adequate legal reasons for your failure to make payment, within ten (10) days of your receipt of this letter.

(b) This section may not be waived by contract.

(c) This section does not apply to the state and any department, board, or agency thereof, including the University of Tennessee; counties and municipalities and all departments, boards, or agencies thereof, including all school and education boards; and any other subdivision of this state.

SECTION 32. Tennessee Code Annotated, Section 66-34-701, is amended by deleting the section and substituting the following:

As a matter of public policy, except as specifically noted, compliance with §§ 66-11-104, 66-34-205, 66-34-304, 66-34-602, and 66-34-603 may not be waived by contract and these sections are applicable to all private contracts and all construction contracts with this state, any department, board, or agency thereof, including the University of Tennessee, all counties and municipalities and all departments, boards, or agencies thereof, including all school and education boards, and any other subdivision of the state.

SECTION 33. Tennessee Code Annotated, Section 66-34-703, is amended by deleting the section and substituting the following:

(a) This chapter does not apply to any bank, savings bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company.

(b) Notwithstanding subsection (a), if a bank, savings bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company acts in the capacity of an original owner in the event of building its own structure or assumes a project due to its debtor's default and proceeds with completion of the project, then the entity is subject to this chapter, except for §§ 66-34-104(c) and (j); however, the retained amount may be deposited in an account within the entity's own institution.

(c) Notwithstanding subsection (a) or any other provision of this chapter to the contrary:

(1) A bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company shall pay any sums held in trust pursuant to § 66-34-205 in accordance with an order of any court issued pursuant to § 66-34-602; and

(2) A bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company is not liable for damages pursuant to § 66-34-104(c) based on the failure of an owner to place retainage in a separate interest-bearing, escrow account as required by § 66-34-104(a).

SECTION 34. Tennessee Code Annotated, Title 66, Chapter 34, Part 7, is amended by adding the following section:

Without limiting any existing law or regulation, it is not against the public policy or public interest of this state for a provision in any agreement relating to the design, planning, supervision, observation of construction, repair, or construction of an improvement to real property to limit the liability of the person furnishing the labor, materials, or services to a reasonable monetary amount.

SECTION 35. Tennessee Code Annotated, Section 66-36-101, is amended by deleting the section and substituting the following:

As used in this chapter:

(1) "Action" means any civil action or binding dispute resolution proceeding for damages or indemnity asserting a claim for damage to or loss of commercial property caused by an alleged construction defect, but does not include any civil action or arbitration proceeding asserting a claim for alleged personal injuries arising out of an alleged construction defect;

(2) "Claimant" means an owner, including a subsequent purchaser, tenant, or association, who asserts a claim against a prime contractor, remote contractor, or design professional concerning a construction defect;

(3) "Commercial property" means all property that is not residential property;

(4) "Construction defect" means a deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction or remodeling of an improvement resulting from:

(A) Defective material, products, or components used in the construction or remodeling;

(B) A violation of the applicable codes in effect at the time of construction or remodeling;

(C) A failure of the design of an improvement to meet the applicable professional standards of care at the time of governmental approval, construction, or remodeling; or

(D) A failure to construct or remodel an improvement in accordance with accepted trade standards for good and workmanlike construction at the time of construction or remodeling;

(5) "Design professional" means a person licensed in this state as an architect, interior designer, landscape architect, engineer, or surveyor, regardless of whether the person is a prime contractor or remote contractor;

(6) "Improvement" has the same meaning as defined in § 66-11-101;

(7) "Notice of claim" means a written notice sent by a claimant to the last known address of a prime contractor, remote contractor, or design professional against whom the claimant asserts a construction defect that describes the claim in reasonable detail sufficient to determine the general nature of the defect, including a general description of the type and location of the construction that the claimant alleges to be defective and any damages claimed to have been caused by the defect;

(8) "Prime contractor" has the same meaning as defined in § 66-11-101;

(9) "Remote contractor" has the same meaning as defined in § 66-11-101;

(10) "Residential property" means property upon which a dwelling or improvement is constructed or to be constructed consisting of one (1) dwelling unit intended as a residence of a person or family; and

(11) "Service" means personal service or delivery by certified mail to the last known address of the addressee, or as otherwise allowed by contract.

SECTION 36. Tennessee Code Annotated, Section 66-36-103, is amended by deleting the section and substituting the following:

(a) In actions brought against a prime contractor, remote contractor, or design professional related to an alleged construction defect, the claimant shall, before filing an action, serve written notice of claim on the prime contractor, remote contractor, or design professional, as applicable. The claimant shall endeavor to serve the notice of claim within fifteen (15) days after discovery of an alleged defect, or as required by contract. Unless otherwise prohibited by contract, the failure to serve notice of claim within fifteen (15) days does not bar the filing of an action, subject to § 66-36-102.

(b) Within ten (10) business days after service of the notice of claim, the prime contractor, remote contractor, or design professional may inspect the structure to assess each alleged construction defect. The claimant shall provide the prime contractor, remote contractor, or design professional and its lower-tier remote contractors or agents reasonable access to the improvement during normal working hours to inspect the improvement, to determine the nature and cause of each alleged construction defect, and the nature and extent of any corrections, repairs, or replacements necessary to remedy each defect. The inspection may include destructive testing. Prior to performing any destructive testing, the person who desires to perform the testing shall notify the claimant in writing of the type of testing to be performed, the anticipated damage to the improvement that will be caused by the testing, and the anticipated corrections or repairs that will be necessary to correct or repair any damage caused by the testing. The person performing the testing shall correct and repair any damage to the improvement caused by the testing.

(c) Within ten (10) days after service of the notice of claim, the prime contractor, remote contractor, or design professional must forward a copy of the notice of claim to each prime contractor, remote contractor, or design professional who it reasonably believes is responsible for each defect specified in the notice of claim and shall note the specific defect for which it believes the particular prime contractor, remote contractor, or design professional is responsible. Each such prime contractor, remote contractor, or design professional may inspect the improvement as provided in subsection (b) within ten (10) business days after receiving a copy of the notice.

(d) Within ten (10) business days after receiving a copy of the notice of claim, the prime contractor, remote contractor, or design professional must serve a written response to the prime contractor, remote contractor, or design professional who served a copy of the notice of claim. The written response must include a report of the scope of any inspection of the improvement; the findings and results of the inspection; a statement of whether the prime contractor, remote contractor, or design professional is willing to make corrections or repairs to the improvement or whether it disputes the claim; a description of any corrections or repairs it is willing to make to remedy the alleged construction defect; and a timetable for the completion of such corrections or repairs.

(e) Within thirty (30) days after receiving the notice of claim, each prime contractor, remote contractor, or design professional must serve a written response to the claimant. The written response must provide:

(1) A written offer to remedy the alleged construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a detailed description of the corrections or repairs necessary to remedy the defect, and a timetable for the completion of the repairs;

(2) A written offer to compromise and settle the claim by monetary payment to be paid within thirty (30) days after the claimant's acceptance of the offer; or

(3) A written statement that the prime contractor, remote contractor, or design professional disputes the claim and will not remedy the defect or compromise and settle the claim.

(f) If the prime contractor, remote contractor, or design professional offers to remedy the alleged construction defect or compromise and settle the claim by monetary payment, then the written response must contain a statement that the claimant is deemed to have accepted the offer if, within fifteen (15) days after service to the written response, the claimant does not serve a written rejection of the offer on the prime contractor, remote contractor, or design professional.

(g) If the prime contractor, remote contractor, or design professional does not respond to the claimant's notice of claim within the time provided in subsection (e), then the claimant may, without further notice, proceed with an action against the prime contractor, remote contractor, or design professional for the claim described in the notice of claim.

(h) A claimant who rejects a settlement offer made by the prime contractor, remote contractor, or design professional must serve written notice of the rejection on the prime contractor, remote contractor, or design professional within fifteen (15) days after service of the settlement offer. The claimant's rejection must contain the settlement offer with the word "rejected" printed on it.

(i) If the claimant accepts the offer of a prime contractor, remote contractor, or design professional and the prime contractor, remote contractor, or design professional does not make the payment, correction, or repair the defect within the agreed time and in the agreed manner, then the claimant may, without further notice, proceed with an action against the prime contractor, remote contractor, or design professional. If a claimant accepts a prime contractor, remote contractor, or design professional's offer and the prime contractor, remote contractor, or design professional makes payment, correction, or repairs the defect within the agreed time and in the agreed manner, then the claimant is barred from proceeding with an action against the prime contractor, remote contractor, or design professional for the claim described in the notice of claim.

(j) If the claimant accepts the offer of a prime contractor, remote contractor, or design professional to correct or repair an alleged construction defect, then the

claimant shall provide the prime contractor, remote contractor, or design professional and their remote contractors or other agents reasonable access to the claimant's improvement during normal working hours to perform the correction or repair by the agreed-upon timetable as stated in the offer.

(k) The failure of a claimant or a prime contractor, remote contractor, or design professional to follow the procedures in this section is admissible in an action. However, this section does not prohibit or limit the claimant from making any necessary emergency corrections or repairs to the improvement. In addition, the offer of a prime contractor, remote contractor, or design professional to remedy an alleged construction defect or to compromise and settle the claim by monetary payment does not constitute an admission of liability with respect to the defect.

(l) A claimant's written notice of claim under subsection (a) tolls the applicable statute of limitations until the later of:

(1) One hundred eighty (180) days after the prime contractor, remote contractor, or design professional receives the notice; or

(2) Ninety (90) days after the end of the correction or repair period stated in the offer, if the claimant has accepted the offer. By stipulation of the parties, the period may be extended and the statute of limitations is tolled during the extension.

(m) The procedures in this section apply to each alleged construction defect. However, a claimant may include multiple defects in one (1) notice of claim.

(n) This chapter does not:

(1) Bar, limit, or replace any rights, obligations, or duties under a contract that provides for notice and opportunity to cure any construction defects. Those contractual provisions control, take precedence, and are in lieu of any obligation or right provided by this chapter;

(2) Bar or limit any rights, including the right of specific performance to the extent that right would be available in the absence of this chapter, any causes of action, or any theories on which liability may be based, except as specifically provided in this chapter;

(3) Bar or limit any defense, or create any new defense, except as specifically provided in this chapter;

(4) Create any new rights, causes of action, or theories on which liability may be based; or

(5) Extend any existing statute of limitations except as specifically provided in subsection (l).

SECTION 37. Tennessee Code Annotated, Section 28-1-101, is amended by deleting the section.

SECTION 38. Tennessee Code Annotated, Section 28-3-202, is amended by deleting the section and substituting the following:

All actions, arbitrations, or other binding dispute resolution proceedings to recover damages for any deficiency in the design, planning, supervision, observation of construction, or construction of an improvement to real property, for injury to property, real or personal, arising out of any such deficiency, or for injury to the person or for wrongful death arising out of any such deficiency, must be brought against any person performing or furnishing the design, planning, supervision, observation of construction, or construction of the improvement within four (4) years after substantial completion of the an improvement.

SECTION 39. Tennessee Code Annotated, Section 28-3-203, is amended by deleting the section and substituting the following:

(a) Notwithstanding § 28-3-202, in the case of an injury to property or person or injury causing wrongful death, which injury occurred during the fourth year after substantial completion, an action, arbitration, or other binding dispute resolution proceeding to recover damages for the injury or wrongful death must be brought within one (1) year after the date on which the injury occurred, without respect to the date of death of the injured person.

(b) The action, arbitration, or other binding dispute resolution proceeding must, in all events, be brought within five (5) years after the substantial completion of the improvement.

SECTION 40. Tennessee Code Annotated, Section 28-3-204, is amended by deleting the section and substituting the following:

(a) This part does not extend the period or periods provided by the laws of this state or by agreement between the parties for the bringing of any action, arbitration, or other binding dispute resolution proceeding.

(b) This part does not create any cause of action not previously existing or recognized.

SECTION 41. Tennessee Code Annotated, Section 28-3-205, is amended by deleting the section and substituting the following:

(a) The limitation provided by this part must not be asserted as a defense by any person in actual possession or the control, as owner, tenant, or otherwise, of an improvement at the time any deficiency in the improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action, arbitration, or other binding dispute resolution proceeding.

(b) The limitation provided by this part is not available as a defense to any person who has been guilty of fraud in performing or furnishing the design, planning, supervision, observation of construction, construction of, or land surveying, in connection with an improvement, or to any person who wrongfully conceals any such cause of action.

SECTION 42. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to actions occurring and contracts entered into, amended, or renewed on or after that date.

On motion, Amendment No. 2 was adopted.

Senator Bailey moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting SECTION 21 and substituting the following:

SECTION 21. Tennessee Code Annotated, Section 66-34-204, is amended by deleting the language "from an architect charged with" and substituting instead the language "from an architect or engineer charged with"; and by deleting the language "the contractor" wherever it appears and substituting instead the language "the prime contractor"; and by deleting the language "provided, however, that".

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2681**, as amended, passed its third and final consideration by the following vote:

Ayes	28
Noes	0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbro and Mr. Speaker McNally--28.

A motion to reconsider was tabled.

Senate Bill No. 2734 -- Sentencing -- As introduced, removes requirement that a person convicted of a drug offense in a drug-free school zone must serve the entire minimum sentence imposed before being eligible for release on parole; decreases the drug-free school zone from 1,000 feet to 500 feet; makes various changes to sentencing requirements for certain controlled substance violations. Amends TCA Title 16, Chapter 2; Title 39, Chapter 17, Part 4 and Section 49-2-116.

Senator Bell moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-432(a), is amended by deleting the language "and mandatory minimum sentences required" and substituting instead "sentences authorized".

SECTION 2. Tennessee Code Annotated, Section 39-17-432(b)(1), is amended by deleting the subdivision and substituting instead the following:

(1) A violation of § 39-17-417, or a conspiracy to violate the section, may be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) if the violation or the conspiracy to violate the section occurs:

(A) On the grounds or facilities of any school; or

(B) Within five hundred feet (500') of or within the area bounded by a divided federal highway, whichever is less, the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.

SECTION 3. Tennessee Code Annotated, Section 39-17-432(b)(2), is amended by deleting the language "shall also be" and substituting instead "may also be".

SECTION 4. Tennessee Code Annotated, Section 39-17-432(b)(3), is amended by deleting the language "but shall be subject to" and substituting instead "but may be subject to".

SECTION 5. Tennessee Code Annotated, Section 39-17-432, is amended by deleting subsection (c) and substituting instead the following:

(c)

(1) Notwithstanding any other law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) may be required to serve at least the minimum sentence for the defendant's appropriate range of sentence.

(2) There is a rebuttable presumption that a defendant is not required to serve at least the minimum sentence for the defendant's appropriate range of sentence. The rebuttable presumption is overcome if the court finds that the defendant's conduct exposed vulnerable persons to the distractions and dangers that are incident to the occurrence of illegal drug activity.

(3) If the defendant is required to serve at least the minimum sentence for the defendant's appropriate range of sentence, any sentence reduction credits the defendant may be eligible for or earn must not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.

SECTION 6. Tennessee Code Annotated, Section 39-17-432(d), is amended by deleting the subsection and substituting instead the following:

(d) Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole does not apply to or authorize the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's

appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

SECTION 7. Tennessee Code Annotated, Section 39-17-432(e), is amended by deleting the subsection and substituting instead the following:

(e) Nothing in title 41, chapter 1, part 5, shall give either the governor or the board of parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

SECTION 8. Tennessee Code Annotated, Section 39-17-432(f), is amended by deleting the subsection and substituting instead the following:

(f) This section does not prohibit the judge from sentencing a defendant, who violated subsection (b) and is required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.

SECTION 9. Tennessee Code Annotated, Section 39-17-432(g), is amended by deleting the subsection and substituting instead the following:

(g) The sentence of a defendant who, as the result of a single act, violates both subsection (b) and § 39-14-417(k), may be enhanced under both subsection (b) and § 39-17-417(k) for each act. The state may seek enhancement of the defendant's sentence under subsection (b), § 39-17-417(k), or both, and shall provide notice of the election pursuant to § 40-35-202.

SECTION 10. Tennessee Code Annotated, Section 49-2-116(c), is amended by deleting the subsection and substituting instead the following:

(c) A school safety zone is the territory extending five hundred feet (500') from school property or within the area bounded by a divided federal highway, whichever is less.

SECTION 11. Tennessee Code Annotated, Section 49-2-116(d), is amended by deleting the subsection and substituting instead the following:

(d) The director of schools, with the approval of the board of education, may develop a method of marking school safety zones, including the use of signs. Signs or other markings shall be located in a visible manner on or near each school indicating that such area is a school safety zone, that such zone extends five hundred feet (500') from school property or within the area bounded by a divided federal highway, whichever is less, and that the delivery or sale of a controlled substance or controlled substance analogue to a minor in the school safety zone may subject the offender to an enhanced punishment. The state board of education shall assist the LEA in complying with the posting provisions of this subsection (d).

SECTION 12. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to offenses committed on or after that date.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2734**, as amended, passed its third and final consideration by the following vote:

Ayes	28
Noes	0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gardenhire, Gilmore, Gresham, Haile, Jackson, Johnson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, Watson, White, Yager, Yarbro and Mr. Speaker McNally--28.

A motion to reconsider was tabled.

Senate Bill No. 1247 -- Education, Dept. of -- As introduced, requires the department to publish the list of art supplies that are certified nontoxic by the Arts and Creative Materials Institute on the department's website. Amends TCA Title 49.

Senator Gresham moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-1-614(k), is amended by adding the following language as a new subdivision (4):

(4) The commissioner shall develop a transition plan for the purpose of planning the return, by the 2022-2023 school year, of schools in the ASD to the LEAs from which the schools were removed. The commissioner shall submit the plan developed pursuant to this subdivision (k)(4) to the education committees of the senate and house of representatives by January 1, 2021.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1247**, as amended, passed its third and final consideration by the following vote:

Ayes	27
Noes	0

Senators voting aye were: Akbari, Bailey, Bell, Briggs, Gilmore, Gresham, Haile, Hensley, Jackson, Johnson, Kelsey, Kyle, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Robinson, Rose, Southerland, Stevens, White, Yager, Yarbrow and Mr. Speaker McNally--27.

A motion to reconsider was tabled.

Senate Bill No. 2342 -- Textbooks -- As introduced, requires publishers to make all textbooks and instructional materials proposed for adoption available on the website of the department of education or the state textbook depository for inspection by LEAs and the public. Amends TCA Title 49, Chapter 6, Part 22.

On motion, Senate Bill No. 2342 was made to conform with **House Bill No. 1827**.

On motion, House Bill No. 1827, on same subject, was substituted for Senate Bill No. 2342.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

Senator Gresham moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-6-2203(d)(3), is amended by deleting the first sentence of the subdivision and substituting instead:

In addition to the finished textbooks and instructional materials required to be filed with the secretary of the commission, publishers shall make all textbooks and instructional materials proposed for adoption available for inspection by LEAs and the public online, which may include access via the state textbook depository's website.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 6, Part 22, is amended by adding the following language as a new section:

(a) An LEA may use English language arts (ELA) textbooks and instructional materials approved for local adoption by the state board for students in grades kindergarten through two (K-2) to provide ELA instruction for students in the third grade if the commissioner of education grants the LEA a waiver pursuant to § 49-6-2206.

(b) The commissioner shall grant an LEA a waiver for purposes of subsection (a) if the third grade ELA textbooks and instructional materials for which the LEA submits a waiver received a passing score in the initial review or re-review of the 2019 ELA textbook and instructional materials adoption cycle on at least as many indicators as other ELA textbooks and instructional materials that were approved for local adoption by the state board, or for which the commissioner granted a waiver.

(c) The commissioner shall accept and consider waiver requests submitted by LEAs pursuant to this section through December 31, 2020, or a later date determined by

the commissioner. The commissioner shall post the deadline for LEAs to submit a waiver request for purposes of this section on the department's website, and shall include the deadline in any waiver-related communications made by the department to LEAs.

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 6, Part 22, is amended by adding the following language as a new section:

The commission shall maintain independence from the department of education. The department's role in the textbook adoption process is strictly limited. The department shall not perform any duties as part of the textbook adoption process other than the duties specifically assigned to the department in §§ 49-6-2201 – 49-6-2203.

SECTION 4. Tennessee Code Annotated, Section 49-6-2201(l)(1)(A), is amended by deleting the language ", through its chair,".

SECTION 5. Sections 1 and 4 of this act shall take effect August 1, 2020, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 1827**, as amended, passed its third and final consideration by the following vote:

Ayes	23
Noes	3
Present, not voting . . .	1

Senators voting aye were: Bailey, Bell, Briggs, Gardenhire, Gresham, Haile, Hensley, Jackson, Johnson, Kelsey, Lundberg, Massey, Niceley, Pody, Powers, Reeves, Roberts, Rose, Southerland, Stevens, White, Yager and Mr. Speaker McNally--23.

Senators voting no were: Akbari, Kyle and Robinson--3.

Senators present and not voting were: Gilmore--1.

A motion to reconsider was tabled.

MOTION

Senator Roberts moved that Rule 83(1) be suspended for the purpose of allowing the Committee on Government Operations to meet today, Wednesday, June 10, 2020 at 1:00 p.m.; and further moved that Rule 83(8) be suspended to add the following bill to the calendar for the Committee on Government Operations: **Senate Bill No. 1672**, which motion prevailed.

RECALL OF BILL

WEDNESDAY, JUNE 10, 2020 -- 62ND LEGISLATIVE DAY

On motion of Senator Watson, **Senate Joint Resolution No. 1310** was recalled from the Committee on Health and Welfare.

REFERRAL OF BILL

Senator Watson moved that Senate Joint Resolution No. 1310 be referred to the Committee on Finance, Ways and Means, which motion prevailed.

MOTION

Senator Watson moved that Rule 83(8) be suspended for the purpose of placing **Senate Joint Resolution No. 1310**; and **Senate Bills Nos. 688, 2931, 2932, 2933 and 2935** on the calendar for the Committee on Finance, Ways and Means for today, Monday, June 9, 2020, which motion prevailed.

MOTION

Senator Johnson moved that Rule 37 and 38 for the purpose of setting calendars for Thursday, June 11, 2020; and further moved to allow any bill passing out of committee Wednesday, June 10, 2020, to be placed on the Calendar for Thursday, June 11, 2020, which motion prevailed.

MOTION

Senator Johnson moved that Rule 37 be suspended for the purpose of placing **Senate Bills Nos. 1060, 1775, 1938, 2313, 2381, 2520 and 2585** on the Calendar for Thursday, June 11, 2020, which motion prevailed.

MOTION

On motion of Senator Stevens, his name was added as sponsor of **Senate Bills Nos. 1809, 2049 and 2312**.

On motion of Senators Gilmore and Kyle, their names were removed as sponsors of **Senate Bill No. 2199**.

On motion of Senator Robinson, her name was added as sponsor of **Senate Bill No. 2202**.

On motion of Senator Akbari, her name was added as sponsor of **Senate Bill No. 2485**; and **House Joint Resolution No. 1212**.

On motion of Senators Briggs and Yarbrow, their names were added as sponsors of **Senate Bill No. 2487**.

On motion of Senators Stevens and Powers, their names were added as sponsors of **Senate Bill No. 2533**.

On motion of Senators Akbari, Stevens and Yarbrow, their names were added as sponsors of **Senate Bill No. 2734**.

On motion of Senator Massey, her name was added as sponsor of **Senate Bill No. 2915**.

WEDNESDAY, JUNE 10, 2020 -- 62ND LEGISLATIVE DAY

On motion of Senator Pody, his name was added as sponsor of **House Joint Resolution Nos. 1193, 1194, 1195 and 1196.**

ENGROSSED BILLS

June 10, 2020

MR. SPEAKER: Your Deputy Chief Clerk begs leave to report that we have carefully examined: Senate Joint Resolutions Nos. 849, 1010, 1011, 1318 and 1329; and find same correctly engrossed and ready for transmission to the House.

ALAN WHITTINGTON
Deputy Chief Clerk

ENGROSSED BILLS

June 10, 2020

MR. SPEAKER: Your Deputy Chief Clerk begs leave to report that we have carefully examined: Senate Bill No. 1247; and find same correctly engrossed and ready for transmission to the House.

ALAN WHITTINGTON
Deputy Chief Clerk

ENGROSSED BILLS

June 10, 2020

MR. SPEAKER: Your Deputy Chief Clerk begs leave to report that we have carefully examined: Senate Bills Nos. 2207, 2667, 2681, 2734 and 2741; and find same correctly engrossed and ready for transmission to the House.

ALAN WHITTINGTON
Deputy Chief Clerk

ENGROSSED BILLS

June 10, 2020

MR. SPEAKER: Your Deputy Chief Clerk begs leave to report that we have carefully examined: Senate Bill No. 2312; and find same correctly engrossed and ready for transmission to the House.

ALAN WHITTINGTON
Deputy Chief Clerk

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2119 and 2317; substituted for House Bills on same subjects and passed by the House.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

2847

UNOFFICIAL VERSION

June 10, 2020

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1990, 2206, 2653 and 2830; passed by the House.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 1010 and 1011; substituted for House Joint Resolutions on same subjects and passed by the House.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1559, 2821 and 2826; substituted for House Bills on same subjects and passed by the House.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221 and 1222; adopted, for the Senate's action.

TAMMY LETZLER
Chief Clerk

ENROLLED BILLS

June 10, 2020

MR. SPEAKER: Your Deputy Chief Clerk begs leave to report that we have carefully compared Senate Joint Resolutions Nos. 832, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327 and 1328; Senate Resolution No. 180; and find same correctly enrolled and ready for the signatures of the Speakers.

ALAN WHITTINGTON
Deputy Chief Clerk

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129,

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UNOFFICIAL VERSION

WEDNESDAY, JUNE 10, 2020 -- 62ND LEGISLATIVE DAY

1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143 and 1144; for the signature of the Speaker.

TAMMY LETZLER
Chief Clerk

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1914; for the signature of the Speaker.

TAMMY LETZLER
Chief Clerk

SIGNED

June 10, 2020

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094 and 1095.

SIGNED

June 10, 2020

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 832, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327 and 1328; and Senate Resolution No. 180.

SIGNED

June 10, 2020

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143 and 1144.

SIGNED

June 10, 2020

The Speaker announced that he had signed the following: House Bill No. 1914.

MESSAGE FROM THE HOUSE

June 10, 2020

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 832, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327 and 1328; signed by the Speaker.

2849

UNOFFICIAL VERSION

WEDNESDAY, JUNE 10, 2020 -- 62ND LEGISLATIVE DAY

TAMMY LETZLER
Chief Clerk

REPORT OF DEPUTY CHIEF CLERK
June 10, 2020

MR. SPEAKER: Your Deputy Chief Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 543, 1597, 1626, 1638, 1667, 1733, 1887, 1923, 2066, 2189, 2190, 2261, 2423, 2629, 2775 and 2836; for his action.

ALAN WHITTINGTON
Deputy Chief Clerk

ADJOURNMENT

Senator Johnson moved the Senate adjourn until 10:00 a.m., Thursday, June 11, 2020, which motion prevailed.